

# LEGISLATIVE COUNCIL

Wednesday 27 June 2001

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**The President (The Hon. Dr Meredith Burgmann)** took the chair at 11.00 a.m.

**The President** offered the Prayers.

## EVIDENCE (AUDIO AND AUDIO VISUAL LINKS) AMENDMENT BILL

### HOUSING BILL

**Bills received.**

**Leave granted for procedural matters to be dealt with on one motion without formality.**

**Motion by the Hon. John Della Bosca agreed to:**

That these bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages, and the second reading of the bills be set down as orders of the day for a later hour of the sitting.

**Bills read a first time.**

### TABLING OF PAPERS

**The Hon. Carmel Tebbutt** tabled a report on the statutory review of the Ports Corporatisation and Waterways Management Act 1995.

**Ordered to be printed.**

### PETITIONS

#### Cannabis Sniffer Dogs

Petition praying that the Minister for Police intervene to prevent the use of cannabis sniffer dogs in the Northern Rivers area, received from the **Hon. Richard Jones**.

#### Podiatrists Act Review

Petition praying that the House includes a definition of "podiatrist" in the review of the Podiatrists Act 1989 and includes restrictions to practise so that quality of care and the safety of the public are maintained, received from the **Hon. Greg Pearce**.

#### Wildlife as Pets

Petition praying that the House rejects any proposal to legalise the keeping of native wildlife as pets, received from the **Hon. Richard Jones**.

## FREIGHT RAIL CORPORATION (SALE) BILL

### Second Reading

**The Hon. MICHAEL EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [11.10 a.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

**Leave granted.**

In September 2000, the New South Wales Government announced its intention to sell Freight Rail Corporation. FreightCorp is the New South Wales Government-owned rail freight operator. This bill provides for the sale of FreightCorp, jointly with the sale of the National Rail Corporation. In May 2000, the Commonwealth confirmed that it would proceed with the sale of its majority-owned rail freight operator, the National Rail Corporation. New South Wales owns approximately 20 per cent of National Rail with Victoria owning approximately 10 per cent.

FreightCorp would have been an ideal purchaser of National Rail, due to the complementary nature of their assets and businesses. However, the Commonwealth has determined that Government-owned operators will not be allowed to bid for National Rail. In response to the Commonwealth's decision, the New South Wales Government examined options for its future involvement in rail freight. The Government assessed the options against three objectives. The first objective was to achieve economic benefits for New South Wales. This includes improvements in rail freight and enhanced employment opportunities and benefits for country and regional areas.

The second objective was to maximise the combined value to New South Wales of FreightCorp and New South Wales' interest in National Rail. The third objective was to minimise the commercial risks to the Government. The option that performed best against these three objectives was a co-ordinated approach to the sale of FreightCorp and National Rail. This bill provides for FreightCorp to be sold jointly with National Rail. The New South Wales Government is currently negotiating with the Commonwealth and Victoria to agree on a process for the joint sale of FreightCorp and National Rail to the same buyer.

While agreement has not yet been reached, the Government is confident of a favourable outcome that will see a new era for rail freight in New South Wales. When announcing its intention to sell FreightCorp, the Treasurer gave three guarantees. First, to maintain New South Wales rail lines and passenger services in public ownership. Second, to provide support for rail freight operations in rural and regional areas through a combination of above-rail and below-rail community service payments. Third, to guarantee jobs for FreightCorp employees.

Nothing in this bill affects the continued public ownership of track and passenger services. The Government-owned Rail Infrastructure Corporation will continue to own the track and other rail infrastructure facilities in New South Wales. The Government-owned State Rail Authority will continue to provide public passenger services in New South Wales. The Government has prepared a Rural and Regional Impact Statement in relation to the sale of FreightCorp.

The Rural and Regional Impact Statement was prepared by the New South Wales Government with assistance from FreightCorp and other agencies. It sets out the rationale for the sale of FreightCorp. It assesses the impact of the sale on the long-term viability of rail freight for rural and regional industries. It assesses the impact of the sale on FreightCorp's employees and rural and regional employment generally. It assesses the impact of the sale on FreightCorp's rural and regional services and on rural and regional rail infrastructure. Finally, it assesses the impact of the sale on rural and regional rail safety and the environment.

The Rural and Regional Impact Statement contains considerable detail in relation to community service payments, and I refer honourable members to it. The Government has substantially increased the community service payments it will make if FreightCorp is sold. The community service payments fall into two categories. First, there are below-rail payments to the Rail Infrastructure Corporation to maintain the rail infrastructure. Second, there are above-rail payments to FreightCorp or other rail operators to carry goods or operate trains. Between 2000-01 and 2005-06, the Government will provide at least \$1,400 million of community service payments to support rural and regional rail freight services. This is an increase of \$100 million on the community service payments to 2005-06 that were planned before the Government decided to sell FreightCorp.

The overall figures include a substantial increase in below-rail payments, in connection with the sale of FreightCorp. Within the \$1,493 million package the Government will increase these below-rail payments by \$260 million. This will make substantial additional government support available to all rail freight operators that use these lines, rather than tying payments to a privatised FreightCorp-National Rail. There will be a reduction in above-rail payments of \$160 million over the six years. This will give a total of around \$235 million to above-rail in the six years to 2005-06. As part of the changes to above-rail payments, existing FreightCorp services on grain branch lines will be guaranteed under a contract with the new owner through to 2005-06.

The Government will still provide substantial support for the rail transport of grain, fuel and other commodities, as guaranteed by the Treasurer. The transfer of some funding to below-rail payments reflects the Government's commitment to maintaining and improving rural and regional rail track and to making more government support available to all rail freight operators providing services in country New South Wales. The Treasurer's third guarantee was to guarantee jobs for FreightCorp employees. The Government has reached agreement with union representatives in relation to a transfer package for FreightCorp employees. The package includes an employment guarantee for three years.

The transfer package will need to be considered by FreightCorp employees over the coming weeks. The Government is confident that FreightCorp staff will accept it as a fair and reasonable package of measures to manage the transition to a new employer. All current FreightCorp employees are to be offered employment with the new owner. Contracts of employment and periods of employment are not to be considered broken for the purposes of transferring and preserving accrued leave entitlements. Existing enterprise agreement and award conditions are to be retained and transferred to the new owner. Existing human resource policies are to be transferred and maintained for a period of up to 3 months, to give the unions time to negotiate with the new owner.

The transfer package will include an entitlement to cash out accrued annual leave and long service leave. A transfer payment based on previous service will be made to all FreightCorp employees. A generous post-sale voluntary redundancy package will be offered during the employment guarantee period, with four weeks pay for every year of service. Payment will be uncapped and service will include service with the new owner and previous service with the government. Existing staff will continue to be entitled to general and gold travel passes after the sale, with an option to cash out the general travel pass for \$2,000. The legislative provisions necessary to give effect to the employee transfer package are contained in part 6 of the bill.

Unions have requested that employees be allowed to remain in their current public sector superannuation schemes, even when they no longer have a government employer. The Government has no objection to this. However, it requires the approval of the Commonwealth, as the regulator of superannuation. The Government has written to the Commonwealth seeking approval for these arrangements. If the Commonwealth does not approve these arrangements, schedule 2 to the bill provides for employees to be transferred either to the Local Government Superannuation scheme, the Electricity Industry Superannuation scheme, or another equivalent scheme with the same benefits as the current scheme.

To provide added security for employee superannuation entitlements, the Government has agreed that, if at any time a purchaser of FreightCorp goes into liquidation, the Government will guarantee employer superannuation contributions. This will apply to contributions due from the commencement of the previous financial year up to the date of liquidation. In November 2000, the Legislative Council's General Purpose Standing Committee No. 4 conducted an inquiry into the privatisation of FreightCorp.

The Committee's first recommendation was, "That the NSW Government commission an independent rural and regional impact statement before any final decision is made on the privatisation of FreightCorp. The impact statement should be tabled in Parliament and be made public." I have already tabled a Rural and Regional Impact Statement prepared by New South Wales Treasury and I refer honourable members to it. The Committee's second recommendation was, "That upon any sale of FreightCorp, in assessing purchase bids, the Government put a high weighting on each purchaser's commitment to the maintenance and procurement of rolling stock in New South Wales." The Government will require bidders for FreightCorp to provide an indication of their capital expenditure plan. This will encompass their plans for maintenance and procurement. Further, FreightCorp's existing contracts will be transferred to the purchaser. These will include existing long-term contracts for maintenance and procurement of rolling stock.

The committee's third recommendation was, "That the New South Wales Government act promptly in responding to any recommendations by Acting Justice McInerney relating to rail safety and amendments to the Rail Safety Act 1993." The Government promptly implemented the recommendations of the first two reports of his Honour Justice McInerney. These included formalising the role of the Co-ordinator General of Rail, providing for the establishment of the Rail Regulator, merging Rail Services Australia with the Rail Access Corporation, and eliminating signalling "blind-spots" in the Blue Mountains. Justice McInerney's Final Report contained 95 detailed recommendations. The Government has already acted on many of the recommendations. These include a review of the safe working rules, the purchase of high technology simulators to help train drivers, guards and other operational staff and funding data loggers to allow driver performance to be monitored. Further detailed work on the recommendations is continuing to ensure a safe and efficient rail system.

The Committee's fourth recommendation was, "That upon any sale of FreightCorp, in assessing purchase bids, the New South Wales Government make demonstrable commitment to safety a key criterion." The Government intends to take into consideration the rail safety record of bidders in assessing purchase bids. Further, the Government will require the purchaser of FreightCorp to obtain accreditation under the Rail Safety Act 1993 prior to completion of the purchase. The Committee's fifth recommendation was, "That, given the concern that a stand-alone fire sale of NRC may have adverse implications for FreightCorp and its employees, the New South Wales Government work towards a joint sale of FreightCorp and NRC to the one bidder by 30 June 2001, provided that the findings of the rural and regional impact study referred to in recommendation 1 are firstly taken into account." As I have already indicated, the Government is currently negotiating with the Commonwealth to agree on a process for the joint sale of FreightCorp and National Rail. Obviously, given delays in those negotiations, a sale date of 30 June 2001 is no longer possible. However, the Government will endeavour to set an early sale target date with the Commonwealth.

The committee's sixth recommendation was, "That the New South Wales Government commit 50 per cent of the proceeds of any sale of FreightCorp to improving the rail freight infrastructure in rural and regional New South Wales. The Government should consult with the rail freight industry to establish priority areas to which this investment should be directed." The Government is committed to maintaining and improving rail freight infrastructure to the appropriate standard. I have already outlined the substantial increase in below-rail community service payments to be made in connection with the sale of FreightCorp. Further details are provided in the Rural and Regional Impact Statement.

The committee's seventh recommendation was, "That as a matter of urgency, the Department of Transport develop a discussion paper for public comment canvassing the costs and benefits, including the economic and social impacts on country communities, of converting the FreightCorp CSO payments into equivalent dollar amounts for infrastructure upgrade. This should be completed, and a final determination of the provision of CSO payments made, before the sale tender documents for FreightCorp are finalised." I have already outlined the increased funding the Government is directing to below-rail infrastructure in connection with the sale of FreightCorp. The Government is committed to supporting the rail freight industry in rural and regional areas.

The committee's eighth recommendation was, "That all matters relating to the tender documents and sale of FreightCorp should be publicly available. Failing this, the Committee recommends that a "community reference panel" be established to oversight sale contracts to reassure the community that matters are being dealt with appropriately." The Government has appointed a Probity Adviser to oversee the entire sale process. This will ensure that all matters connected with the sale process are dealt with appropriately. Copies of the Government's call for expressions of interest to purchase FreightCorp will be made public. The Government is willing to make public the final contract for the sale of FreightCorp in conjunction with National Rail subject to any confidentiality concerns of third parties. Furthermore, the Government expects the Auditor-General will review the sale and the documentation associated with it.

The committee's ninth recommendation was "That in the event that community service obligation payments remain with the freight operator, these payments be transparent and open to contestability according to specific commodity type and rail line." I have already outlined the increased community service payments in relation to the sale of FreightCorp. In relation to the above-rail community service payments, I note that the Government plans to make the payments for carriage of petroleum by rail contestable from early next year.

The committee's tenth recommendation was, "That a condition of any sale of FreightCorp be that the successful bidder must not make redundant any staff who carried over from the Government-owned FreightCorp for a minimum of two years." I have

already outlined the extensive package of employment protections being given to FreightCorp employees. This includes an employment guarantee for three years. In addition, the Government has offered a two-year employment guarantee to the employees of National Rail working in New South Wales.

The committee's eleventh recommendation was, "That the New South Wales Government finalise and publish by 30 June 2001 the Freight 2010 strategy." The Department of Transport is currently working on the Government's Freight 2010 Strategy. It is planned to be finalised by the end of the year. The Government also plans to release its Port Strategy to complement the Freight 2010 Strategy.

The committee's twelfth recommendation was, "That the New South Wales Government ensure that economic appraisal of major road and rail infrastructure projects incorporate, to the fullest extent possible, public externalities with appropriate weighting and quantification. Externalities may include, but are not to be limited to: fossil fuel use, greenhouse gas emissions, other airborne pollutants, noise, traffic congestion, and social and economic loss incurred by accidents and fatalities." The public externalities referred to are already routinely taken into account by the Government in conducting economic appraisal of major road and rail infrastructure projects, in accordance with the New South Wales Government Guidelines for Economic Appraisal. Under those Guidelines, an economic appraisal that failed to incorporate such matters would be considered deficient.

The Committee's thirteenth recommendation was, "That in instances where rail and road freight are in direct competition, the New South Wales Government ensure that track infrastructure is of sufficient standard to permit rail operators to achieve, as a minimum, comparable travel times with road." As I have already indicated, the Government will provide significant additional funding for track infrastructure in connection with the sale of FreightCorp.

The committee's fourteenth recommendation was, "That the New South Wales Government lobby the Commonwealth Government and other States and Territories to support the establishment of a national organisation for rail transport with similar objectives as the National Road Transport Commission." The Government has previously indicated its support for a National Land Transport Commission, which would encompass both road and rail transport. New South Wales is a member of the Australian Transport Council. The Council has established a National Transport Secretariat, which has a charter to provide advice on nationally significant, cross-modal, cross-jurisdictional issues. New South Wales will continue to work towards a National Land Transport Commission.

The Committee's fifteenth, and final recommendation was, "That before any privatisation of FreightCorp can proceed, the New South Wales Government review, by an independent process, its Rail Access Regime to ensure it presents competitively neutral opportunities for any player to enter the rail freight market in New South Wales. This includes access to terminal facilities in both metropolitan and rural and regional areas of New South Wales. This review should include opportunities for interested parties to present submissions, and be publicly available upon completion."

The New South Wales Rail Access Regime was subject to detailed scrutiny by the National Competition Council when the Government applied to the Commonwealth to have the Regime certified as effective under the Trade Practices Act. It was also subject to extensive public consultation on at least six separate occasions. Further, last year the Government introduced amendments to the Independent Pricing and Regulatory Tribunal Act to allow the Tribunal to investigate competitive neutrality complaints referred to it by the Premier. This already provides an independent mechanism for the assessment of competitive neutrality complaints.

The bill provides for the sale of FreightCorp by one of three methods. Under the first method, the business undertaking or assets of FreightCorp would be sold to the purchaser. Under the second method, FreightCorp would be converted from a State Owned Corporation to a company incorporated under the Corporations Law and the shares in that company would be sold to the purchaser. Under the third method, the business undertaking or assets of FreightCorp would be transferred to a new company and the shares in that company would be sold to the purchaser.

Including three methods of sale in the bill ensures that the Government will be able to use the sale method that will achieve the best outcome for the State. Clause 5 of the bill ensures that FreightCorp can only be sold jointly with National Rail. Under that clause, FreightCorp can be sold to the purchaser of National Rail or to a related body corporate of the purchaser of National Rail. The only other permitted purchaser of FreightCorp is National Rail itself. This option is included in case a successful bidder of FreightCorp and National Rail wants to buy the business undertaking of FreightCorp into National Rail at the time of sale.

Sale methods one and three contain provisions concerning so-called "special leases". These relate to cross-border leases for locomotives entered into in December 1994. The bill will enable the purchaser of FreightCorp to use the locomotives through a sub-sub-lease arrangement. The Government has received legal and other advice on this arrangement. It is designed to reduce and then manage any ongoing risk to the State under these leases. The bill also includes a provision to enable the Auditor-General, with the approval of the Treasurer, to disclose certain information in relation to FreightCorp. This information would normally be covered by the secrecy provisions applying to the Auditor-General.

The provision in the bill will facilitate the due diligence process to be undertaken by bidders. This bill will permit the sale of FreightCorp jointly with National Rail. Selling FreightCorp is the best option for New South Wales, given the Commonwealth's decision to sell National Rail. It is the best option for the rail freight industry, for rural and regional areas and for FreightCorp's employees. I commend the bill to the House.

**The Hon. JOHN JOBLING** [11.10 a.m.]: The Opposition does not oppose the bill, which is interesting in that the options for the sale of FreightCorp are structured in an unusual way. As honourable members will be aware, the State Government announced its intention to sell FreightCorp as far back as September 2000. I also note that earlier in the year the Federal Government announced the proposed sale of the National Rail Corporation. In addition, the Federal Government has determined that government-owned

operators will not be allowed to bid for the National Rail Corporation. The bases of the sale are consistent, when one looks at the competitive national freight industry and we hope that will assist in overcoming unfair competition between publicly owned rail freight operators and an increasing number of private operators who should be given an equal and fair chance to compete against FreightCorp or whoever may be the successful purchaser.

The bill provides for the sale of FreightCorp by one of three methods, which is quite unusual. I believe it is a first for New South Wales. The first method involves the direct transfer of the business undertaking to a purchaser. Under that method the assets of FreightCorp would be sold to a single purchaser. The second method involves the conversion of FreightCorp to a company and, after conversion, the sale of that company to a purchaser. The third method involves the transfer of the business undertaking to a company and the sale of that company to a purchaser. In proposing three methods for sale, it would appear that the Government is attempting to maximise its options and the amount of money that might be raised from the sale of FreightCorp. That is, of course, a highly desirable outcome and is exactly as it should be.

It is ironic, though, to note that as far back as the 1999 election campaign, attacks were made on the Coalition by Labor Ministers and the Labor Government of the day in an attempt to suggest that a future Liberal government would do an evil thing and sell the Freight Rail Corporation. Now the wheel has turned full circle. There is no doubt that in 1999 the Labor Government had decided that it would sell FreightCorp but for quite mischievous political reasons was attempting to cover its tracks.

**The Hon. Duncan Gay:** They are mean and tricky!

**The Hon. JOHN JOBLING:** What my colleague says is true. At that time Labor did not propose to take the taxpayers or rail employees into its confidence. The Government made great play about the issue, which simply goes to show that certain statements made by the Government should be examined with a great deal of care. I congratulate my colleague the Hon. Jennifer Gardiner—who has leave from the House and is not present in the Chamber—on the work undertaken by General Purpose Standing Committee No. 4 under her as chair. That committee examined in great detail the sale of FreightCorp and its privatisation, and looked specifically at a number of issues that were of interest.

The committee visited FreightCorp operating centres throughout New South Wales to see them at first hand and talk to employees. It examined the question of profit before interest and tax; and, of course, the cash returns to the Government. The committee also specifically examined the community service obligation [CSO] payments that were paid to FreightCorp from 1996 through to 2000—the rail access expenditure on construction and maintenance of New South Wales networks. The committee's 15 recommendations were succinct and well drafted, and have clearly had an effect on the Government. The committee's first recommendation was that the New South Wales Government should commission an independent rural and regional impact statement before any final decision is made on the privatisation of FreightCorp.

**The Hon. Duncan Gay:** That was an election policy, too.

**The Hon. JOHN JOBLING:** Yes, it is interesting to see what the Government is now doing or attempting to do to justify the sale of something it was not going to sell. The rural and regional impact statement was tabled in the Legislative Assembly on 21 June. Until that time, Treasury had refused to release the report. A note from Treasury dated 14 December 2000 indicated that a number of matters had been addressed; and that the rural and regional impact statement had been submitted to Cabinet. This is, of course, subject to Cabinet confidentiality. Since then the Government has seen fit to table the rural and regional impact statement. Recommendation 5 was of great concern to the committee. It concluded that the stand-alone fire sale of the National Rail Corporation may have adverse implications for FreightCorp and its employees.

The committee recommended that the New South Wales Government work towards a joint sale of FreightCorp, perhaps to the one bidder, by 30 June 2001, provided that the findings of the rural and regional impact study referred to in recommendation 1 were firstly taken into account. The committee was anxious that the privatisation of FreightCorp may have significant implications for rural and regional New South Wales. To that end it noted that 67 per cent of FreightCorp employees work outside the Sydney metropolitan area. It concluded that any reduction in FreightCorp's work force would have a disproportionate effect on rural and regional New South Wales. That matter was of great concern to the Hon. Jennifer Gardiner and her committee—as it should be, because the effect could be quite dramatic.

The committee also expressed concern about the cumulative effect of community services being withdrawn from rural and regional communities—which the Government has continued to do in many instances.

The committee examined the matter of staff, which had not been addressed at that stage, and recommendation 10 reflected the committee's concern. It recommended that any successful bidder must not make redundant any staff carried over from the government-owned FreightCorp for a minimum of two years. Following the committee's report the Government has taken heed of that excellent recommendation and has given an undertaking in respect of the employees' transfer package, including three-year and two-year job guarantees for FreightCorp and National Rail employees in New South Wales respectively as negotiated with the relevant unions.

The Government has made sure that the adoption of the three-year job guarantee for FreightCorp employees has exceeded the period recommended by the committee. The other recommendations of the committee were also addressed in the rural and regional impact statement. It is particularly important that they be addressed because of concern that employees in rural New South Wales could suddenly find themselves without a job and experience great difficulty in obtaining another if this guarantee had not been included.

The Government has put forward three options for sale. Under the first method the transferred employees would retain any rights to sick leave, annual leave and long service leave accrued before the transfer, unless the employees had been paid the money beforehand. There is no such provision under the second method. There is a further variation under the third method. I am pleased that rural employees who have given long and dedicated service to FreightCorp and the people of New South Wales will be considered.

Recommendation 15 is that before any privatisation of FreightCorp proceeds the New South Wales Government should independently review its rail access regime to ensure preservation of the present competitive-neutral opportunities for any player to enter the freight market. This includes access to terminal facilities in metropolitan and rural and regional areas. The review should include opportunities for interested parties to present submissions and it should be publicly available upon completion. The report is commendable. It covers an enormous amount of ground to ensure that people are looked after and rural communities are not continually disadvantaged.

In 1999 the Government was not up front with the people. It was claimed that the rail system "would be flogged off". The transparency is now obvious. The FreightCorp community service obligation payment of \$73 million allows rail to be used to move freight when it otherwise would be uneconomic. People in the rural and regional areas have access to rail at a reasonable rate. I have no doubt that without the community service obligation payment much freight presently travelling by rail would find its way onto the road system, with the problems this would bring. This would continue to have a negative impact on the local communities of New South Wales.

**The Hon. Ian Cohen:** You would subsidise private operators.

**The Hon. JOHN JOBLING:** No, if the honourable member would wait for a moment he would understand why I said that. The Opposition believes that the \$73 million should be available to all operators and not simply restricted to FreightCorp. Under the new structure the bulk of the money will find its way to the Rail Infrastructure Corporation, which is reasonable because much of the money should go into rail upgrading, track maintenance, signalling, ballast and freight wagons, all of which have been run down under the Government. In many parts of the New South Wales rail network there are 20 kilometre an hour speed limits. This greatly increases the time to transport fresh produce to the markets, reducing the potential return to growers. There has been continuing neglect over the past five to seven years. It is long overdue that some of this money went back "under the rails", as it is affectionately described.

Some of the money, understandably, will stay with the Freight Rail Corporation. The Government said in the rural and regional impact statement that in a package of \$1.493 million the Government will provide \$260 million for non-commercial investment in country and regional rail track. As my colleague said, it is long overdue and needed to bring tracks up to an even passable condition and to sustain the network throughout rural and regional New South Wales. The expenditure is important for the grain and coal industries, which are the major earners for rail in rural New South Wales.

The Government claims that the package will make substantial extra Government support available to a larger number of rail freight operators rather than tying payments to a privatised FreightCorp-National Rail Corporation. This is highly desirable. I am curious and will wait to see what happens. The honourable member for Lachlan in the other place referred to a firm called Austrac, a privately owned rail operation that has been trying for a number of years to compete against FreightCorp to win contracts to cart grain. It has been singularly

unsuccessful, like other private operators, in competing with FreightCorp. The problem is that the CSO funding that has been available in the past has gone 100 per cent to FreightCorp. That is not fair, reasonable or competitive. It gives private enterprise no ability—

**The Hon. Duncan Gay:** And it does not look as if it is going to change.

**The Hon. JOHN JOBLING:** The Government talks about change but, as my colleague suggests, we need to watch the situation very closely. I also am extremely sceptical. Austrac made specific recommendations in relation to recommendation 7 of the upper House inquiry, that the Department of Transport provide a discussion paper on CSO policy and its implications. Important policy decisions have been made without consultation and without the participants in the New South Wales rail inquiry having the chance to put their point of view. This is of great concern. Recommendation 9 relates to the contestability of CSO payments. I ask the Minister whether the allegation of Austrac is true, that the Government proposes to make contestable less than \$2 million of the current subsidy of \$72 million. If that is so, why is the Government being so niggardly and continuing to deny private enterprise a reasonable chance to compete?

It is no wonder that my colleague in the other House, the member for Lachlan, is concerned. In relation to recommendation 15, dealing with competitive neutrality in rail access and involvement, it appears that the Government is aware that at least one private sector operator has sought an investigation via the Independent Pricing and Regulatory Tribunal, IPART. Indeed, it is my understanding that the reference was made to the Premier as long ago as 1999. These matters should be investigated, understood and resolved so that there is a reasonable rail infrastructure after the years of neglect.

**The Hon. Ian Cohen:** For only the short term, though.

**The Hon. JOHN JOBLING:** Yes, as my colleague the Hon. Ian Cohen said, it is only short term.

**The Hon. Ian Cohen:** It is described as a transitional period.

**The Hon. JOHN JOBLING:** Yes, it is indeed a transitional period and, therefore, close scrutiny of what is happening are imperative. I am pleased that at least the rural and regional impact statement has been tabled and made public. The Opposition will not oppose the bill.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [11.30 a.m.]: The Minister's second reading speech in the other place was based substantially on the rural and regional impact statement, and I imagine the same will apply in this place. The statement appears to have been prepared without a material degree of independence by the authors, or rigorous econometric analysis. It appears that the views of only a select group were taken into account in framing the rural and regional impact statement. During a committee meeting I indicated that it was disgraceful that a statement of this significance went to Cabinet without such a document being attached. It was through the good work of members of the Labor Party, the Liberal Party, the National Party and the crossbench in that committee that this recommendation has been adhered to, albeit in a limited manner. Earlier I reminded the House, by way of interjection, that one of the core promises—or maybe it was a marginal promise—of the Government was that all legislation would be accompanied by a rural and regional impact statement.

**The Hon. John Jobling:** It was an out-of-core promise.

**The Hon. DUNCAN GAY:** It was an out-of-core promise. And in the next bill that came before the Parliament the statement was missing. The rural and regional impact statement assumes that, somehow, a concentration of market power in the rail freight industry—such as will occur in the combined sale of the Freight Rail Corporation and the National Rail Corporation—will improve service levels and provide increased benefits to rural and regional customers. Somehow that will automatically happen, but that has not been explained. Frankly, this is worse than the existing failed model of a government-owned monopoly in New South Wales, because it will be an even bigger monopoly. The Government has attempted to create what effectively will be a private, national monopoly. History tells us that when a monopoly power exists, customers tend to pay in increased prices or have poor service at additional costs. Those additional costs are transferred as benefits to the internal stakeholders in the enterprise, whether it is a government or a private monopoly. And there is no difference.

**The Hon. John Jobling:** It sounds like the fare rises.

**The Hon. DUNCAN GAY:** Yes, which are effective from today. The Opposition suggests that the major aim of the Government is to transfer benefits to the unionised employee base, predominantly at the expense of rural and regional customers who compete in the export markets. On the investment side, the additional future cost burden on exporters will be capitalised in the sale process and will result in a higher price being paid by the purchaser than would otherwise be the case. That can be regarded as a conspicuous effort by the Government to disguise the poor, true value of the enterprise that will be sold. Sadly, the sale process and the attendant policy does not propose to arrive at any form of contestability or competitive neutrality in the market. It continues to exclude niche rail competitors, who could provide a high degree of service to rural exporters. The Government rural and regional impact statement rarely pays lip-service to the findings of the upper House committee.

As the Hon. John Jobling and other members have said, all the parties in this House combined to produce this bipartisan and very comprehensive report. An analysis of the outcomes proposed by the Government compared to the major findings of the upper House committee revealed how poorly the Government has addressed the issues. Recommendation 1 was for an independent rural and regional impact statement. According to the Government's statement, the majority of its inquiry about the impact study was with FreightCorp, its employees, and internally within the Department of Transport. It is well known that the path between Governor Macquarie Tower and the Rail, Tram and Bus Union office has been well trodden over the past few months. Indeed, the Government paid for the study that was provided to the union, which featured strongly in its submission to the inquiry and upon which the Government has chosen to reply.

**The Hon. Ian Cohen:** It was not the only study.

**The Hon. DUNCAN GAY:** It was a study that the Government funded and commissioned and upon which it has placed its statement. The Government contradicted itself on page 1 of the rural and regional impact statement, which states:

... this statement is an objective and transparent analysis of the rationale for the sale ... readers may wish to also consult the GPSC report.

Unfortunately, the gap between the impact statement and the recommendations of the committee report is of major proportions, and the Government does itself no credit for having tried to pretend otherwise. The needs of private operators and other intermediaries addressing regional markets have not been addressed in the report and no consultation process appears to have been undertaken with that group. How can the Government pretend that this is a comprehensive report without that consultation? Its contribution to a comprehensive report would have been substantial, even essential, in this area. The committee's recommendation 6 is for 50 per cent of the proceeds of sale of Freight Rail Corporation to be utilised for improving rail infrastructure. I did not attend all meetings, but I heard of alarming reports about the infrastructure. A conservative sale price for the enterprise is of the order of \$800 million.

The inquiry heard considerable evidence of the poor condition and low standard of the majority of the rail network, including compelling evidence, as the Hon. John Jobling indicated, of achieved speeds as low as 30 kilometres per hour. Evidence was provided to the effect that approximately \$700 million would be required to bring the network up to an acceptable standard outside the metropolitan area. Accordingly, it appears reasonable that at least the amount recommended by the upper House committee be put to this use. The Government's proposal for improvements is about \$200 million in present terms, compared to the recommendation of the Labor, Liberal, and National members of the committee. That is \$260 million over six years. That suggests a gap of about \$500 million in investment necessary to bring the system up to an acceptable standard.

**The Hon. John Jobling:** That is putting revenue into a hollow log.

**The Hon. DUNCAN GAY:** That is true. Honourable members should note the suspension of competitive tendering for maintenance work and the payment of compensation for cancelled tenders, again rendering costs higher than necessary. The Government has proposed to provide less than one-third of the amount recognised as necessary by the committee and less than one-half of that recommended by the committee for improving the network. The Government has also saddled the system as a whole with higher costs than necessary by forsaking competitive tendering. Recommendation 7 is that the Department of Transport provide a discussion paper on the community service obligation policy and its implications. The Hon. John Jobling spoke at length about that, as did Ian Armstrong in the other place. That recommendation has been totally ignored.

Recommendation 8 related to public availability of information. It is of concern to the Opposition that important policy decisions have been made without consultation with some of the major participants of the New



South Wales rail industry. Of core concern is that important details of apparently decided policy still remain undisclosed. Also, there is a vast gap between the proposals of the Government and regional public disclosure in relation to the sales process. It would be expected that the confidentiality concerns of purchasers will prevent disclosure of the final outcome. Therefore, the time for the Government to provide information on policies and likely terms and conditions is during this process, not at the conclusion of the sale process. Recommendation 9 refers to contestability of CSO payments. The Government proposes to make less than \$2 million of a current subsidy of \$72 million contestable. Quite frankly, the Government is doing nothing.

**The Hon. Michael Egan:** It is all a matter of timing.

**The Hon. DUNCAN GAY:** It is always a matter of timing.

**The Hon. Michael Egan:** Well, they weren't contestable when you were in government, were they?

**The Hon. DUNCAN GAY:** It was not privatised then, was it?

**The Hon. Ian Cohen:** Are you going to vote against it?

**The Hon. DUNCAN GAY:** I am expressing proper concerns. It appears that it is not explicitly set out in the information released by the Government that the purchasers of Freight Rail Corporation will obtain the continuing benefit of an exclusive subsidy with the present value of \$200 million over the next six years. Page 13 of the rural and regional impact statement made the following assertion:

It is likely that within the next five to ten years the rail freight sector will have matured to the point that it is feasible to introduce contestability for CSO funding for product haulage.

The Treasurer said it could be coming and the impact statement agreed, yet it said that would be in about 10 years time.

**The Hon. Michael Egan:** I will still be here then. I know you won't be, but I will be.

**The Hon. DUNCAN GAY:** It is unfortunate that the State of New South Wales has to look forward to the continuing state of neglect with the Hon. Michael Egan still in the House. Of course, he will not be in control. I will be sitting in the seat next to where he is sitting now and he will be over here. He will probably have been rolled by then. The Hon. Peter Primrose will be in charge then, and it is something he looks forward to. The upper House committee heard credible and substantial evidence from many people that subsidies would be completely unnecessary within a few years if the track standards and conditions were brought to modern levels. The Government is also contradicting itself. The fuel subsidy will be contestable but the industry is otherwise insufficiently mature. We suggest that to the extent that the industry has not evolved it is largely as a result of poor policy and, in particular, the existing policy and structure of exclusive CSO payments to one operator on an undisclosed basis. The Opposition does not think that will change, although the Government may be able to inform us otherwise. The Government must comply fully with the upper House contestability recommendation in relation to CSO payments if it has any credibility. In addition to the above, I refer to the budget estimates submission, which provides:

A subsidy to Rail Infrastructure Corporation to ensure rail infrastructure is maintained at its existing standard and provision of subsidies for rail freight services which it would not otherwise provide at the price charged to freight users.

This statement does not refer to any subsidy to FreightCorp or its successors. The Government appears to have contradicted itself or misled Parliament in the budget papers. The Opposition would like to know the situation: Is it there or is it not there? Given the importance of the bill, we need to know that. Recommendation 12 refers to consideration for public externalities in investment decisions. There is plenty of evidence, such as the upper House inquiry BTE Paper 40, that the Government has not in the past or now adequately considered the externalities associated with transport sector infrastructure. For example, how has this Government allowed the condition of the rail network to reach a condition in which its dynamic efficiency is less than one-half that of road? The Government needs to address at the policy level the current and proposed methodologies for investment decision making and disclose those methodologies. This will provide investors and other stakeholders in the industry with a higher level of confidence in relation to future government policy decision making.

Recommendation 13 relates to the standard of track infrastructure. The Government has failed totally to answer the recommendation of achieved performance standards. The upper House committee sought

performance outcomes and standards as a means of rail becoming competitive with road, with the attendant benefits for the community acknowledged by the Government's own rural and regional impact statement. The Government's response is merely an input measure already revealed as inadequate in amount. Recommendation 15 refers to competitive neutrality in rail access and involvement of the Independent Pricing and Regulatory Tribunal [IPART]. I am unaware of the state of the NCC certification and perhaps the Government can enlighten me on that. The Government is aware that at least one private operator has sought an investigation by IPART and made that request to the Premier in 1999.

The existence of an independent process is of no use here if, as in the above case of genuine concern endorsed by the Australian Competition and Consumer Commission [ACCC] and the NCC, the Premier will not provide a referral to IPART. The Government has not provided an independent mechanism for the assessment of competitive neutrality complaints and to suggest otherwise, frankly, is misleading the House. Continuing concerns exist in relation to terminal access in metropolitan Sydney and in other parts of New South Wales. The sale process will partially remove these matters from the jurisdiction of IPART. The Government should address the issue within the sale process and by other explicit policy action via the Rail Industry Council, the Sydney Ports Corporation and the Sydney Harbour Foreshore Authority.

In conclusion, the Opposition has concerns regarding the employee transfer package. The transfer package contains normal and appropriate security and continuity of employment conditions, however, it contains an unprecedented level of benefit to employees. These appear to be premised solely on the change of ownership, which is a concern to potential buyers. It also should be a proper concern for employees and something that unions should watch. There are four major elements: first, a transfer payment, presumably consequential on the hardship of a change in ownership from the public sector to the private sector; second, a gold pass travel entitlement—something members of Parliament used to have—third, an extremely generous redundancy package; and, fourth, an unspecified but undoubtedly generous superannuation arrangement. The redundancy arrangements, in particular, are not only expensive but extremely dangerous. They effectively encourage employees to resign rather than stay on at work, which could cause the new owner substantial employee availability problems. The arrangements will probably force the new owner to rehire those employees who have just received generous redundancy packages.

These cost arrangements are strange to say the least, and we estimate that New South Wales taxpayers will bear an unnecessary direct cost of between \$90 million and \$120 million as a result of these poorly drawn provisions. The Government proposes to donate more than 10 per cent of the total sale price to the unionised employee base. That hasty decision could have the effect of corrupting the employment market in the rail sector and causing problems for potential purchasers. That would affect the sale price—the Treasurer should be aware of this point—and could lead to a price penalty of up to \$200 million. The Opposition is concerned about the employees as well as the taxpayers. As the Hon. John Jobling said, we have reservations about the way in which the Government is proceeding with this legislation, but we will not oppose it.

**The Hon. IAN COHEN** [11.52 a.m.]: I listened with interest to the speech by the Deputy Leader of the Opposition. Although he is obviously not in a position to oppose the Freight Rail Corporation (Sale) Bill, he expressed significant and reasonable concerns about the legislation. It will have a negative impact on country people and benefit a Labor Government that is focusing on city issues. I served on the inquiry that considered the sale of FreightCorp, and I submitted a dissenting report. I am very dissatisfied with the Government's direction regarding this sale, and the Greens strongly oppose the bill. I was halfway through discussions about workers compensation last night when I learned that we were to consider this legislation this morning. The Government is simply attempting to push through the bill while union attention is diverted by the workers compensation issue. It is extraordinary that this important bill has received virtually no attention in the media or in the lower House. I understand that the bill whipped through the other place in the record time of about 13 minutes.

**Reverend the Hon. Fred Nile:** That is a long time for the lower House.

**The Hon. IAN COHEN:** I appreciate Reverend the Hon. Fred Nile's humour. However, that is extremely disconcerting. During the inquiry we discussed rail protection with Mr Lewocki from the Rail, Tram and Bus Union [RTBU] and the Government. Previous speakers in this debate have referred to the well-worn path between Labor offices and the city offices of the RTBU. It is clear that this powerful union organiser has secured significant protection for his work force. Unfortunately, as at June 2000, 2,150 other employees—a substantial number—will be directly affected by this sale, and many others who are employed in industries that depend on FreightCorp will be affected indirectly.

The Deputy Leader of the Opposition and the Minister in his second reading speech mentioned the fact that workers will receive transitional protection. How effective will that be? How much protection will be provided and how long will it continue? I suggest that that protection will last for an extremely short part of a person's working life, which will have tragic consequences for many people who are unable to find other employment. Many workers are employed in rural and regional areas that already bear the burden of years of economic rationalist policies. Like those who will be affected by the workers compensation legislation, these people have voted faithfully for Labor for generations. They are again being betrayed by a Labor Government.

The Greens oppose the privatisation of public assets. Money markets have been deregulated and the Commonwealth Bank and Qantas were privatised by the Hawke and Keating Labor governments. Big business has derived great advantages from the privatisation process. Today's newspapers carry stories about the student demonstrations in Papua New Guinea. The students of that small national state are acting on their ideals and, in the process, encountering massive problems from a government that is driving towards privatisation. The Greens reject the creation of a privatised national monopoly. The cost burden will be shifted to exporters and the true value of the enterprise to be sold will be disguised. Niche rail users and smaller operators will be excluded. A private national monopoly will not assist in the long term in improving conditions for workers in rural areas or in delivering a functioning system.

I am concerned about the expected sale price of \$800 million. I have heard that it will cost \$700 million to bring the network to an acceptable standard. It is to be sold at a bargain basement price while a community service obligation of some \$73 million—or about 10 per cent of the sale price—has been introduced to support a private enterprise. That does not add up. Why has the network been allowed to degrade to this extent? Why is there no value within the system? This is a deliberate strategy on the part of government to break down the asset and lessen its value—while providing little public information—in order to sell it to a private consortium.

The Government is using the Legislative Council inquiry, which took place last year, to justify the sale. The inquiry was an important opportunity for the community to make its views known. Before turning to specific issues raised by the bill, I shall look at some issues raised by the inquiry and provide an analysis of the issues involved in the sale from the Greens' perspective. As honourable members know, I was not part of a bipartisan position, which often happens with the sale of such entities. But I participated in a dissenting report. I have grave concern about the way in which this process was undertaken. The committee claims to have found little or no evidence demonstrating the advantages or disadvantages of divesting ownership of rail infrastructure to the private sector.

**Pursuant to sessional orders business interrupted.**

## **QUESTIONS WITHOUT NOTICE**

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### **GOROKAN NEIGHBOURHOOD WATCH GROUP**

**The Hon. MICHAEL GALLACHER:** My question without notice is to the Minister Assisting the Premier for the Central Coast. Can the Minister outline what measures have been taken to address the concerns of the Gorokan Area No. 15 Neighbourhood Watch group. The group, having become so desperate about rising crime in its district, has called a public meeting after being told by local police that nothing can be done to stop crimes like assault, break and enter, and car theft because of a lack of resources?

**The Hon. JOHN DELLA BOSCA:** I would be very surprised—

**The Hon. Michael Gallacher:** Shocked.

**The Hon. JOHN DELLA BOSCA:** Indeed, as the Leader of the Opposition interjects, shocked, if residents were told by local police—what were the words?

**The Hon. Michael Gallacher:** "Nothing can be done."

**The Hon. JOHN DELLA BOSCA:** "Nothing can be done." I would be very surprised about that. As it is a police operational matter, I will obtain an answer from the Minister for Police on that aspect of the question and on the general thrust of the question, which deals with law enforcement issues and community

response. As the Minister and most members are aware, this Government, in the appropriation bills before this House, has committed to provide adequate resources for the Police Service. I cannot comment any further.

### COMMUNITY DRUG INFORMATION STRATEGY

**The Hon. RON DYER:** My question without notice is to the Special Minister of State. Can the Minister outline some of the work being done under the Community Drug Information Strategy to ensure all communities have access to information about drug issues?

**The Hon. JOHN DELLA BOSCA:** A series of recommendations from the New South Wales Drug Summit related to the importance of a community education campaign. It was identified that the community as a whole wants to better understand the issues about the problem of drug abuse. Better understanding of the issues can potentially enable individuals and organisations to participate in local positive action to address the drug problem. The Community Drug Information Strategy is our Government's key response to these recommendations. The strategy aims to raise community awareness of effective avenues to address drug use, encourage community action, and ensure co-ordination of the Government's communication activities concerning initiatives arising from the Government Plan of Action.

To date a range of resources has been developed as part of the strategy. These include information sheets, newsletters and a drug action web site. On Monday evening I announced a new project developed under this strategy. It is an innovative joint project between the Premier's Department and the State Library of New South Wales. This project will give the community greater access to drug-related information through local libraries. The project involves working with local libraries to create a network of community-based outlets for disseminating drug-related information. It is worth noting that there are more than 370 public libraries across New South Wales, 237 in regional New South Wales.

Research shows that libraries have high levels of usage by older people, younger people and students and children. Libraries are considered safe, trustworthy and tolerant places where all people have right of access regardless of circumstances. The project will develop a co-ordinated collection of the best drug information resources from across the State, and it will provide opportunities for communities to access locally relevant information, including information on local services, support groups, treatment services and events. The project will also involve training library staff about drug issues so staff can provide sensitive and informed advice regarding the location of information that a member of the community might need. Further, the project will provide friendly face-to-face service for community members seeking information, and it will establish partnerships with community drug action teams across New South Wales to support them in addressing local drug problems.

The project aims to lessen the divide between those community members with access to on-line information and those without, and to provide all New South Wales communities with access to best-practice provision of information on drug-related issues and local community drug action at every library across the State. The project is being developed and is expected to roll out across the State in 12 months time.

### ENERGYAUSTRALIA ELECTRICITY CHARGES

**The Hon. DUNCAN GAY:** My question is to the Treasurer. Will EnergyAustralia customers enjoy lower electricity prices in the short term as a result of the Independent Pricing and Regulatory Tribunal's decision to reduce network tariffs by 8 per cent? Can the Treasurer explain how EnergyAustralia customers will benefit from this decrease, when IPART's chairman, Dr Tom Parry, stated in a media release last week that the tribunal is not certain of any benefits to flow from the order to reduce tariffs?

**The Hon. MICHAEL EGAN:** I will ascertain what Professor Parry's comments were and will come back to the House with a response when I have that detail.

### PRIVATE LANDS CONSERVATION VALUES

**The Hon. IAN COHEN:** My question is to the Special Minister of State, representing the Minister for Urban Affairs and Planning. The forest agreements for north-east New South Wales state that by 1 January 2001 the Resource and Conservation Assessment Council [RACAC] must establish a committee and seek funding to promote protection of conservation values on private lands within the two regions. Can the Minister advise the House why this has not been done? Can the Minister further give an assurance that this now will be undertaken as a matter of urgency?

**The Hon. JOHN DELLA BOSCA:** I am not in a position to provide an adequate answer to the honourable member's question. I am sure the Minister in the other place would be able to do so. I will ask him to do so as promptly as possible so that the honourable member can have the information he requires.

### TECHNOLOGY PARTNERS GROUP

**The Hon. TONY KELLY:** My question without notice is to the Treasurer, and Minister for State Development. Can the Minister please explain current developments with the Hunter-based IT company Technology Partners Group?

**The Hon. MICHAEL EGAN:** Yes, I can.

**The Hon. TONY KELLY:** I ask a supplementary question. Will the Minister please explain current developments with the Hunter-based IT company Technology Partners Group?

**The Hon. MICHAEL EGAN:** Yes, I will. I am pleased to advise that Technology Partners Group is rapidly expanding its operations in Newcastle and has just won a substantial export contract to supply software design and development services to a firm in Silicon Valley. The company is hiring another 20 highly skilled staff to work on two new software development projects for an American client called Extensil. That United States firm designs low-power system-on-a-chip technology based on the field programmable gate array [FPGA] platform. The Australian firm is using that technology to develop a microprocessor, which will allow certain wireless mobile devices to be reprogrammed rather than replaced.

Technology Partners Group is confident of significantly increasing its business in the United States over the next few years. It has been growing its Australian business exponentially since launching in Sydney in 1998. Fewer than two years after the Premier opened the company's Hunter Development Centre in July 1999, TPG has outgrown the building and has taken over additional premises to allow a future increase of Newcastle staff to 75 people. It is important to note the contributions of this Government to the success of Technology Partners Australia. The Department of State and Regional Development has assisted Technology Partners Group to establish its primary place of business in Newcastle, and it has contributed strategic commercial advice.

New South Wales Government's assistance to this promising company helped it to expand from seven staff at the opening of the Newcastle office to 55 employees today. This is only one example of the phenomenal new growth of information technology jobs in the Hunter Valley to graduates of the University of Newcastle and Hunter TAFE computer courses. Firms like Technology Partners Group are making vital contributions to the development of a progressive economy in the Hunter. [*Time expired.*]

### PUBLIC SUBMISSION DOCUMENTS ACCESS

**The Hon. MALCOLM JONES:** My question is to the Minister for Juvenile Justice, representing the Minister for the Environment. In the budget estimates hearing on the Environment portfolio on Monday evening, both the Minister and the Director-General of National Parks and Wildlife Service referred to current advice received relating to freedom of information about access to public submission documents. Will he please provide details of this advice to the House?

**The Hon. CARMEL TEBBUTT:** I assume the Hon. Malcolm Jones is referring to comments made by the Minister for the Environment. I will refer the question to the Minister in the other place. I do not know whether the Minister in the other place gave the commitment to provide the information to his estimates committee. Therefore I cannot say whether the information is to be provided to this Chamber or through the estimates process. I will refer it to the Minister for a response.

### TUGGERAH LAKES COLLEGE

**The Hon. PATRICIA FORSYTHE:** My question without notice is to the Special Minister of State, representing the Minister for Education and Training. Is it a fact that, at a meeting on the Central Coast on 13 June, a meeting of parents and teachers passed a motion to condemn the Government for its "ad hoc restructuring proposals of the Central Coast"? What action will the Minister for Education and Training take to resolve concerns raised by teachers, parents and students about the Tuggerah Lakes College proposal?

**The Hon. Duncan Gay:** You're the Minister for the Central Coast. You should know this.

**The Hon. JOHN DELLA BOSCA:** I am not aware of the outcome of that meeting on 13 June. I will take the time to inform myself of its conduct and resolutions. When I have done that I will refer those and the honourable member's question to the Minister for his reply.

#### NEW SOUTH WALES INVESTMENT PROMOTION

**The Hon. JOHN JOHNSON:** My question is addressed to the Treasurer and Leader of the Government. Will he travel overseas next week to promote investment in New South Wales?

**The Hon. MICHAEL EGAN:** Yes.

#### NORTH COAST POLICE DRUG SEARCHES

**The Hon. RICHARD JONES:** I ask the Special Minister of State a question without notice. Did a three-day operation by 18 police using sniffer dogs in Byron Bay, Mullumbimby, Brunswick Heads, Ocean Shores and Lennox Head result in the seizure of only 70 grams of marijuana worth \$500, the arrest of 21 people, the charging of five people with possession, and the charging of one person with self-administration? Did this massive operation cost nearly \$100,000 of taxpayers' money? Why is Commissioner Ryan wasting resources like this? Did the police also strip search 17-year-old Matt Le Beau outside the ANZ bank in Mullumbimby only to find nothing, but left Matt shaking and humiliated? Was this operation treated with scorn by the local media and cause outrage in the community? Why is the Government allowing our police force to act like Nazis and cause tremendous division between the police and the community? What ever happened to community policing?

**The Hon. JOHN DELLA BOSCA:** I can assure the honourable member that no-one is authorising or suggesting that New South Wales police would behave, as he put it, like Nazis. That reference is very close to offensive. I am sure that, in calmer moments, he would accept that members of the New South Wales Police Service operate to a very high ethical standard in most of these matters. But he has raised these concerns with me on a number of occasions. I have undertaken to him that I will take the matter up with the Minister for Police. I undertake to do that again as a matter of urgency. Hopefully, I will be able to provide him with a formal answer and some satisfaction as to the background.

#### LAND TAX VALUATIONS

**The Hon. Dr BRIAN PEZZUTTI:** My question is to the Treasurer, and Vice-President of the Executive Council. Will he order the Office of State Revenue to conduct a full assessment of land valuation methods to determine whether properties have been overvalued, leading to overpayment in land tax? What measures are in place to ensure that properties valued by registered assessors are not over or undervalued?

**The Hon. MICHAEL EGAN:** It is appalling to suggest that a tax-raising body like the Office of State Revenue would be involved in any way at all with the valuation of land that is used for land tax evaluation. It is an incredible conflict of interest! I can assure the honourable member that for as long as I am Treasurer of this State, and that will be for another 15 years—two years ago it was 17 years; it is amazing how quickly the period becomes shorter—the Office of State Revenue will not fiddle around with land valuations. That is the responsibility of an independent statutory officer, known as the Valuer-General, who has statutory responsibilities to perform.

#### WORKPLACE BULLYING

**The Hon. IAN WEST:** My question without notice is directed to the Special Minister of State, and Minister for Industrial Relations. Will the Minister inform the House what action has been taken to protect young people from bullying in the workplace?

**The Hon. JOHN DELLA BOSCA:** The National Children's Youth and Law Centre recently presented WorkCover New South Wales with an award of appreciation for its contribution to improving workplace safety for young people. The centre, which is Australia's only community legal centre dedicated to presenting the rights of young people, undertook the secure workplace for young Australians project to address workplace bullying, particularly when it involves young trainees and apprentices in blue-collar trades. The project was funded by the WorkCover Injury Prevention, Education, and Research Grants scheme, and involved three distinct stages.

The project began with an employer-awareness and information program, which included forums, workshops and dissemination of an employer information kit. Stage two focused on employee awareness, with a bullying hotline run through WorkCover's Client Contact Centre and the incorporation of relevant legal

information on the National Children's Youth and Law Centre web site. The final stage of the project involved a public communication campaign to raise community awareness of this important issue, and to publicise the availability of the information kit, the bullying hotline and information available on the Internet. It is hoped that the secure workplace for young Australians project will continue to contribute to improved workplace health and safety for young people by raising public awareness about bullying in the workplace, and provide guidance about methods for eliminating it.

### DEATH CERTIFICATES

**The Hon. ELAINE NILE:** I direct my question to the Treasurer, representing the Minister for Health. Is it a fact that doctors regularly fake death certificates when they have made a mistake, as recently reported by the Australia Council of Safety and Quality Health Care, which found that between 1990 and 1995 it was alleged that around 90,000 deaths resulted from mistakes, but only 346 had been acknowledged? What action is the Department of Health taking to investigate these serious allegations, and to ensure that doctors include all relevant facts when reporting death, especially adverse events, on death certificates?

**The Hon. MICHAEL EGAN:** That is really a frightening claim. I would very much doubt that it was true. Nevertheless, I will refer it to the Minister for Health and obtain a response.

**The Hon. Dr Brian Pezzutti:** To the Attorney General?

**The Hon. MICHAEL EGAN:** I will refer it to both Ministers.

### VINCENTIA LAND ACQUISITION

**The Hon. DON HARWIN:** My question is to the Minister for Juvenile Justice, in her capacity as Assistant Minister for the Environment and representing the Minister for the Environment. Given yesterday's statement by the Premier on the need to prevent inappropriate coastal development, will the Minister give urgent consideration to the acquisition under the Coastal Lands Protection Scheme of two parcels of coastal parkland at Vincentia—known as Prince George Reserve and Plantation Point Reserve—currently in private ownership and recently sold by Realty Realisations to other developers; and in so doing ensure that the land is preserved as public asset for all time?

**The Hon. CARMEL TEBBUTT:** The honourable member has asked an important question. It raises some specific issues of which I do not have details or advice, although I am broadly aware of the significance of the areas referred to by the honourable member. I will refer his question to the Minister and undertake to get a response as soon as possible.

### BIOTECHNOLOGY INDUSTRY

**The Hon. PETER PRIMROSE:** My question without notice is to the Treasurer, and Minister for State Development. Will the Minister provide details of what the New South Wales Government is doing abroad to promote New South Wales as the number one destination for biotechnology in Australia?

**The Hon. MICHAEL EGAN:** The biotechnology industry in New South Wales is mounting its strongest ever push for new international collaboration and investment at the world's leading biotechnology exhibition and conference in the United States of America. According to the Australian Biotechnology Report 2001 released yesterday by the Minister for Industry, Science and Resources, Senator Nick Minchin, biotechnology is now worth more than \$1 billion a year to Australia—one thousand million dollars. More than 50 representatives, including the leaders of some of New South Wales most innovative biotechnology companies, university researchers and financial and legal experts, are currently at Bio 2001 in San Diego as part of the Australian delegation to the event.

Bio 2001 is the world's largest and most important annual gathering of the highly competitive international biotechnology industry. Bio 2001 offers New South Wales companies the chance to be recognised in the global biotechnology market. This is not the first time the New South Wales Government has supported a series of major biotechnology missions to the United States. Others have included the CALBIO Summit in San Diego in 2000. The mission to Bio 2001 will build on the strong links between Sydney and San Diego, which was established under the New South Wales-California Sister State relationship.

**The Hon. John Ryan:** That is a very special agreement between New South Wales and California.

**The Hon. MICHAEL EGAN:** I am glad the honourable member acknowledges that. New South Wales companies attending successive biotechnology summits in San Diego have established a strong reputation in the biotechnology industry and will focus on developing business and commercial alliances. The New South Wales delegation, organised by the New South Wales Department of State and Regional Development, is headed by Dr Claire Baxter, Chair of the New South Wales Innovation Council's Biotechnology Working Group. The centrepiece of the New South Wales presence at Bio 2001 will be a special industry briefing for international industry leaders featuring addresses by Dr Peter Farrell, Chairman and Chief Executive Officer of ResMed Incorporated, and Councillor Lucy Turnbull, Deputy Lord Mayor of Sydney and Chair of the Ministerial Advisory Council on biotechnology.

ResMed, as I am sure honourable members are aware, has captured multimillion dollar world markets for its sleep disorder products. It is important that New South Wales has a strong presence and makes a strong impact on the global biotechnology community through this international event. I would add that I also made a visit to San Diego towards the end of last year when I had the opportunity of meeting with key players in the biotechnology industry in San Diego.

#### **REDFERN AND WATERLOO YOUTH VIOLENCE**

**Reverend the Hon. FRED NILE:** I ask the Treasurer, representing the Minister for Police a question without notice. Is it a fact that groups of young people ran riot through the streets of Redfern and Waterloo last Thursday and Friday evenings? Is it a fact that those youth gangs, throwing rocks, attacked police and passing cars and smashed the window of a taxicab? In relation to police not making arrests, will the Minister please investigate why the local area commander claimed that the police were "not suitably prepared for such an incident"? Why are police not suitably prepared and equipped in volatile communities such as the Redfern Local Area Command? Why were some police at risk, as they were clothed only in shorts with bare legs?

**The Hon. MICHAEL EGAN:** I thank Reverend the Hon. Fred Nile for his question, which I will refer to the Minister for Police and obtain a response as soon as I am able to do so.

#### **RIVERLINK ELECTRICITY INTERCONNECTOR**

**The Hon. DOUG MOPPETT:** My question is addressed to the Treasurer, and Vice President of the Executive Council. Will the New South Wales Government give the much-needed Riverlink electricity interconnector major project status once it is approved by the National Electricity Market Management Company [NEMMCO]? Why has it taken NEMMCO almost 18 months to make a decision on the Riverlink proposal? What action has the Government taken to ensure that the proposal receives the necessary support?

**The Hon. MICHAEL EGAN:** NEMMCO, of course, at the urging of the South Australian Government a couple of years ago actually scuttled the Riverlink interconnection—I emphasise at the instigation of the South Australian Government. It was probably the worst public policy decision that any Government in Australia has made, certainly in my time as Treasurer of New South Wales. New South Wales has an excess capacity of electricity generation. South Australia is very hard pressed.

**The Hon. Doug Moppett:** That is the advantage of producing it.

**The Hon. MICHAEL EGAN:** That is right. There were opportunities for a regulated interconnection between South Australia and New South Wales. In fact, it was Premier Olsen, before he became Premier, who first raised that prospect with me shortly after I became Treasurer, and Minister for Energy. I was very enthusiastic about it, the Government of New South Wales was enthusiastic about it, and at that time, Mr Olsen was enthusiastic about it. Some time after that the South Australian Government decided to privatise its electricity industry. I have no quibble with that, but I certainly do quibble with the way in which the Government went about it.

The Government decided that it would try to boost the price it got for the industry, and that it would do that by constraining supply to South Australia. It probably meant that the Government got another \$400 million or \$500 million in sales proceeds, but it meant that South Australia continues to have a shortage of power. As a result of that, businesses in South Australia are facing the prospect of brownouts and blackouts on an almost permanent basis—as occurs in California. In fact, the cost of power, when they can get it, is now at a wholesale price of about \$80 per megawatt hour, which is well over twice what businesses in New South Wales are paying. South Australia has had to struggle mightily to overcome chronic disadvantages and I would have thought we would not want to add an additional burden, in the form of an uncertain and very costly supply of electricity, to the difficulties that South Australia is already experiencing.



**The Hon. Doug Moppett:** What are you doing to support it?

**The Hon. MICHAEL EGAN:** We have been advocating a regulated interconnection between South Australia and New South Wales as a matter of the highest priority. In fact, the South Australian Leader of the Opposition, Mr Mike Rann, is coming to New South Wales today to commit himself to an interconnection between New South Wales and South Australia. It is a magnificent example of co-operation between Labor parties—a Labor Government in one State and a future Labor government in another State—for the benefit of the whole nation, and particularly for the benefit of South Australia. I congratulate Mr Mike Rann on what he is doing to ensure that people and businesses in South Australia have an adequate supply of electricity at a competitive price. It is appalling that people in South Australia have to pay twice as much for power as people in New South Wales pay. It should not have happened. [*Time expired.*]

#### DEPARTMENT OF JUVENILE JUSTICE STAFF TRAINING

**The Hon. JANELLE SAFFIN:** My question is directed to the Minister for Juvenile Justice, and Minister Assisting the Premier on Youth. What training is provided to help staff in the Department of Juvenile Justice handle difficult behaviour by young people in the department's care?

**The Hon. CARMEL TEBBUTT:** In a former life the Hon. Janelle Saffin had close contact with the Department of Juvenile Justice, working with young clients of the department. The safety of the staff and clients of the Department of Juvenile Justice is of paramount importance to the Government. It is vital that staff know how to react when faced with difficult behaviour by young people. That means effective and continuing training is necessary for staff in the frontline. Staff need to be trained so that they have both the skills and the understanding to deal with difficult situations in a way that "de-escalates" rather than escalates confrontation and conflict.

Many of the adolescents in the care of the department are difficult to manage. I would say that some are extremely difficult to manage. At times their behaviour is so severely challenging that it poses a threat to themselves, to other young people and to staff. Many young offenders have poorly developed skills in negotiating and in conflict resolution. They have suffered abuse and they find themselves in an environment in which they feel powerless. Unfortunately, often in their young lives the only examples of how to respond to situations have involved violence, and they tend to respond with violence. Often their response is to lash out, to rebel and to be as difficult as possible. Historically, there was little formal training for frontline workers in how to manage difficult behaviour appropriately to "de-escalate" situations.

However, the report of the New South Wales Ombudsman into the disturbances at the Karijong Juvenile Justice Centre in 1999 strongly recommended that the department provide better training for staff in the management of difficult behaviour. I am pleased to inform the House that such training is well under way. In fact, this training for staff is the most detailed and thorough ever undertaken in the department. The formal training document is in the process of being printed and distributed to all frontline staff. It establishes a framework for staff to manage difficult and challenging behaviour by clients. It sets out the department's expectations of staff in responding appropriately. That is particularly important, because often staff have to respond in moments of crisis. So when crisis is not present they need to develop a clear understanding of the department's expectations.

The department drew on a wide range of expertise and experience to develop its training program. It consulted with the Police Service and the departments of Community Services, Corrective Services, Health, Education and Training. The New South Wales Ombudsman's office, the Public Service Association and the Visiting Children's Legal Service have reviewed the training document and have given it the tick of approval. Putting the training program into practice is a major undertaking and it is progressing well. A total of 265 staff of the Department of Juvenile Justice have so far completed a very thorough training course that has been spread over three days. The majority of the remaining frontline staff, both permanent and casual, will undertake the training over the next year. The training covers adolescent behaviour, supervision techniques, conflict resolution, the use of force, self-defence tactics, the use of incentives, and strategies to calm critical situations.

Specialists in behaviour management from outside and within the Government provided valuable input in designing the course. One component covers protective tactics, including the use of force and restraints. The Department of Corrective Services has been contracted to facilitate this aspect of the training and to accredit selected trainers. The Training and Equity Unit of the Department of Juvenile Justice has been responsible for developing and implementing this program. The unit reports that, overwhelmingly, staff have embraced what is a highly interactive and practical training course, and staff rate it as relevant and the best training provided by the department.

### MUSEUM OF CONTEMPORARY ART SITE

**The Hon. Dr PETER WONG:** My question is directed to the Treasurer, representing the Premier, and Minister for the Arts. Given that the City of Sydney Council redevelopment proposals for the Museum of Contemporary Art [MCA] were poorly received by the public, what is the State Government's view on the future use or development of the site? If the MCA is not viable in its current building, what is the Government's view on moving the MCA to a more appropriate site?

**The Hon. MICHAEL EGAN:** I have previously expressed my personal preferred option: the demolition of that horrible, old, fascist structure that was built in the 1950s and its replacement by Kable and Holmes park. Anyway, I will refer the honourable member's question to my colleague the Premier.

### SCHOOLS FUNDING

**The Hon. JOHN RYAN:** My question is to the Special Minister of State, representing the Minister for Education and Training. How can schools promised the \$100 million upgrade in the rather ironically named Building the Future plan be assured that they will get any of the funding when Malvina High School is still awaiting the funding it was promised when Peter Board High School closed some years ago?

**The Hon. JOHN DELLA BOSCA:** I hear an interjection that I rely on as accurate because the member involved knows a lot about the issue. The interjection suggested that the point behind the honourable member's question cannot be substantiated because it is indeed not true. The specific question deals with an operational question in relation to the education department. I will ask the Minister for Education and Training to provide an answer to the question as soon as is practicable.

### FIRE ANT CONTROL

**The Hon. IAN COHEN:** My question is directed to the Minister for Juvenile Justice, representing the Minister for the Environment. Will the Minister act to stop the spread of American fire ants—which are actually wasps—in eastern Australia? As fire ants run to cooling meat, will the Australian barbeque, along with picnics and thongs, many frog species and birds such as the bower bird, be rendered extinct by these imported pests?

**The Hon. CARMEL TEBBUTT:** I am not familiar with the issue raised by the Hon. Ian Cohen. The Government has allocated significant funding to the National Parks and Wildlife Service for pest management. I will refer the question to the Minister in the other place to see whether the service is addressing the issue the honourable member has raised, and I undertake to get a response for the honourable member.

### SWANSEA BRIDGE OPERATION

**The Hon. CHARLIE LYNN:** My question is to the Minister for Mineral Resources, representing the Minister for Roads. Can the Minister confirm that the new Swansea Bridge failed to operate on two occasions on the same day recently because maintenance crews had drained oil from the hydraulic system but had failed to replace it? Has an assessment been made of the extent and cost of the damage that would inevitably have been caused by this failure?

**The Hon. EDDIE OBEID:** I will seek a response to this very important question from my colleague in the other place.

**The Hon. CHARLIE LYNN:** I ask a supplementary question. Minister, are you aware that the old Swansea Bridge, rather than the new bridge, failed yesterday as well?

**The Hon. EDDIE OBEID:** No, I am not aware.

### HUNTER VALLEY TRAINING COMPANY TWENTIETH ANNIVERSARY

**The Hon. JAN BURNSWOODS:** My question without notice is to the Treasurer, and Minister for State Development.

**The Hon. John Della Bosca:** Point of order: Madam President, there is a strange sound that comes from the Opposition benches whenever a particular member of the Government gets to her feet to address the House. I ask you, if you can hear the sounds, to ask members to desist from that practice.

**The PRESIDENT:** Order! In the past I have had to ask members on the Opposition bench to refrain from making noises that are both sexist and offensive. Please refrain from behaving in that manner.

**The Hon. JAN BURNSWOODS:** Will the Minister provide the House with details of the successful 20-year anniversary of the Hunter Valley Training Company?

**The Hon. MICHAEL EGAN:** I am delighted to be able to do that. I am happy to also confirm that the Government is committed to its ongoing involvement with the Hunter Valley Training Company. As part of the Government's review of Pacific Power it has considered what arrangements should be put in place in respect of Pacific Power's 50 per cent shareholding in the Hunter Valley Training Company. I am pleased to announce that the Government will retain those shares and my colleague the Deputy Leader of the House, Minister for Industrial Relations, and Assistant Treasurer, will have responsibility for all issues associated with the Hunter Valley Training Company. I am sure that he is looking forward to that, because he is a great supporter of it. He was a great supporter of the man whose brainchild the Hunter Valley Training Company was—the Hon. Pat Hills.

**The Hon. Dr Brian Pezzutti:** Who runs the company now?

**The Hon. MICHAEL EGAN:** I am coming to that. Last Friday I was pleased to travel to Maitland to speak at the celebration of the twentieth anniversary of the Hunter Valley Training Company, which commenced in 1981 as an initiative to address a projected skills shortage in the New South Wales power station building program. Since then it has diversified and, with eight regional offices throughout New South Wales, it has become a model for group training companies. Over that 20 years 8,000 apprentices have progressed through the program in the Hunter alone, that is apart from all the apprentices who have gone through training companies in other parts of the State that go by their own regional names but which, in fact, are part of the Hunter Valley Training Company. Another 1,000 young people are completing their training as I speak.

In 1999, the Government introduced payroll tax concessions for employers of new and existing apprentices in New South Wales. That initiative has been an important incentive for employers to take on new apprentices. In addition to providing training to young workers, the Hunter Valley Training Company has completed a number of major projects, including the restoration of historic steam locomotives, workshop buildings and coal-handling facilities.

I mentioned that 20 years ago, Pat Hills, as Minister for Industrial Relations, was instrumental in setting up this great Hunter institution. At that time he surprised a lot of people by appointing Mr Milton Morris, a former Liberal Minister for Transport in this State, as Chairman of the Hunter Valley Training Company. I remember Pat Hills being taken to task by some Newcastle Labor members of Parliament for that appointment. I was in the dining room when one member took on Mr Hills and demanded to know why Milton Morris had been appointed. Pat Hills simply said, "Because he is the best man for the job"; and that is the attitude we take with appointments generally.

Pat Hills' judgment has been borne out, 20 years on, because Milton Morris is still running the company as efficiently and effectively as he did then. The success of the company is a great testament to Milton Morris. I was delighted last Friday that Mr Milton Morris and some hundreds of people associated with the company attended the celebration. It was apparent that that training company has been successful not only because it was a good idea in the first place but also because of the tremendous spirit and commitment of all the people who work for and with it. *[Time expired.]*

#### **TORRINGTON STATE RECREATION AREA**

**The Hon. MALCOLM JONES:** My question without notice is directed to the Minister for Juvenile Justice, representing the Minister for the Environment. On 4 April I asked the Minister for the Environment a question about meetings between National Parks and Wildlife Service staff and the local community regarding the Torrington State Recreation Area. In his answer, the Minister for the Environment mistakenly referred to meetings held with the Torrington Regional Reserve Trust. My original question referred to meetings between the National Parks and Wildlife Service and the elected representative committee and/or the New England Action Group. Have those meetings taken place? If so, when? What were the outcomes?

**The Hon. CARMEL TEBBUTT:** I will refer the question to the Minister. I undertake to get a clarification of what appears to be a misunderstanding about the group the member referred to in his original question, and provide the response as soon as possible.

### INLAND RECREATIONAL FISHING

**The Hon. RICK COLLESS:** My question is directed to the Minister for Fisheries. Minister, are some recreational anglers being prevented from accessing inland waterways by the locking of travelling stock reserve [TSR] gates? Minister, what action will you take to ensure that recreational anglers have free and unfettered access to inland waterways through TSRs and other Crown land?

**The Hon. EDDIE OBEID:** I thank the honourable member for his interest in recreational fishing, particularly freshwater fishing, but I am not aware of the issue he has raised. I will find out the reason for this, if it is a fact, and provide him with a response.

### LIGHTNING RIDGE OPAL MINING

**The Hon. HENRY TSANG:** My question is to the Minister for Mineral Resources. Minister, what has been done to encourage further exploration in the Lightning Ridge area?

**The Hon. EDDIE OBEID:** I thank my colleague the Hon. Henry Tsang for his continued interest in the State's mineral industry. Last financial year, the New South Wales opal industry produced \$39 million worth of precious stones. Our State's black opals are prized worldwide for their outstanding quality, and 90 per cent of the world's supply of high-quality black opal comes from Lightning Ridge. The New South Wales Government is ensuring that it provides the industry with information that helps opal workers become smarter miners. The Government has provided \$90,000 for a pilot survey of the Lightning Ridge area.

I have been advised that a survey of part of the opal corridor in the area was successfully completed this week. More than 1,000 kilometres of data were collected over the four-day operation. The survey used the latest technology to identify target areas at which quality opal can be found. A crew of four used a helicopter to tow a 6.5 metre electromagnetic sensor during the aerial survey of the target area. Measurements taken by the probe build up a three-dimensional computer image of opal-bearing rock which lies below several layers of sandstone.

That information will be processed and released to potential investors and explorers later this year. This week's survey builds on our knowledge of this important area from the ground surveys that were completed late last year. The project is part of the New South Wales Government's seven-year \$30 million Exploration New South Wales initiative, which is designed to encourage investment in regional New South Wales. I look forward to updating the House about future developments at Lightning Ridge.

### MONTAGUE ISLAND FUR SEAL

**The Hon. RICHARD JONES:** I ask the Minister for Juvenile Justice, representing the Minister for the Environment, whether the Minister for the Environment will investigate why the National Parks and Wildlife Service did not respond to a call by fishermen at Montague Island a few weeks ago advising that a fur seal was mortally injured? Did the service refuse permission to the fishermen to shoot the seal when the service failed to turn up, even though a boat was available? Will the Minister please investigate this tragic incident?

**The Hon. CARMEL TEBBUTT:** I am unaware of the specific incident to which the honourable member referred, so I will refer it to the Minister in the other place and undertake to get a response for the honourable member.

### NORTHPOWER AND GREAT SOUTHERN ENERGY SENIOR MANAGEMENT

**The Hon. DUNCAN GAY:** My question is to the Treasurer. Given the Treasurer's continued assertions that there will be no job losses as a consequence of the formation of Country Energy, will he inform the House of the circumstances surrounding the future employment of NorthPower boss, Tom Parkinson, and the head of Great Southern Energy, Greg Wood?

**The Hon. MICHAEL EGAN:** No, I am not aware of those details.

**The Hon. Dr Brian Pezzutti:** The fellow did the best job for you and gave you the biggest bonus, dividends of \$45 million, and you are throwing them away.

**The Hon. MICHAEL EGAN:** I object. Only a month or so ago the Hon. Dr Brian Pezzutti was telling us that NorthPower was losing money and now he is telling us that it has provided dividends of \$45 million.

**The Hon. Dr Brian Pezzutti:** It did. I told you that.

**The Hon. MICHAEL EGAN:** Is he entitled to do that? Is he entitled to lie to the House and, by way of interjection, trifle with the House?

**The PRESIDENT:** Order! Is the Treasurer taking a point of order?

**The Hon. MICHAEL EGAN:** It is a matter of privilege, Madam President. It is appalling.

**The PRESIDENT:** Order! The Minister will resume his seat. The Hon. Amanda Fazio has the call.

### **AUSTRALIAN SALMON AND TAILOR**

**The Hon. AMANDA FAZIO:** My question is to the Minister for Fisheries. What action has the Minister taken to recognise the status of Australian salmon and tailor as icon sport fish?

**The Hon. EDDIE OBEID:** I thank the Hon. Amanda Fazio for this important question and commend her for her keen interest in two of our important sport fish. Australian salmon and tailor are two species that are highly regarded by keen anglers. Recreational fishers value them for their excellent fighting ability, a challenge to the skills of keen sport fishers. The species have helped this State gain a world-class reputation as a place to go for great sport fishing. Tailor has a reputation of being the bread and butter fish for coastal recreational fishers. Sport fishing is a major tourist attraction in regional New South Wales. Regional communities benefit from keen anglers and their families holidaying in their towns. Sport fishing creates jobs and supports small businesses in country areas.

These two species are not generally targeted by commercial fishers as they have a poor keeping quality. They are recognised as a low-value commercial species. Catch returns from commercial fishers indicate that catches of Australian salmon have dropped over recent years. This may be caused by falling demand and environmental pressures. In 1999 the New South Wales Government announced its commitment to protect the species in its Fisheries New South Wales sustaining, sharing and conserving policy, which outlined the Government's intention to change the permitted fishing method for tailor and Australian salmon. In keeping with the Government's commitment I am pleased to advise that new measures to better protect Australian salmon and tailor will apply from August. They will have effect for five years. They include banning the catching of both species by all methods other than set lines, hand-held lines, drift lines and landing nets. After August tailor can be caught by a line-only method in all New South Wales waters.

This also applies to the taking of Australian salmon in waters north of Barrenjoey Headland, which is a prime spawning ground in which some of the larger salmon in New South Wales are found. This proposal to protect both species from net fishing will have a minimal impact on commercial fishers because of their low catches. The value of commercial catches for these species accounts for less than half of 1 per cent of the State's total catch. These new measures will ensure the continuation of recreational fishing opportunities for these species.

To ensure commercial fishers do not waste fish caught accidentally, a by-catch of 100 kilograms will apply for both species. Commercial fishers have had more than two years to adjust their operations since the Government's announcement in February 1999. The future of Australian salmon and tailor will be enhanced under these new management arrangements, with both commercial and recreational fishers contributing to the sustainability of these species.

### **ABORTIFACIENT RU-486**

**The Hon. ELAINE NILE:** I address my question to the Treasurer, representing the Minister for Health. Is it a fact that the International Planned Parenthood Federation is recommending medical abortion to the Australian Family Planning Association through the use of the morning after abortion pill, RU-486, over its previous recommendation of surgical abortion? Is it a fact that under the New South Wales Crimes Act all abortion is illegal? What action will the Minister take to ensure that the dangerous abortion pill RU-486 is not permitted to be used in this State?

**The Hon. MICHAEL EGAN:** I am not familiar with the matters raised by the Hon. Elaine Nile, but I will refer them to the Minister for Health and get a response.

### COMPULSORY THIRD PARTY INSURANCE

**The Hon. MICHAEL GALLACHER:** My question without notice is to the Special Minister of State. Given that the Minister pledged to reduce the average price of green slips for owners of metropolitan vehicles by an average of \$100, will he now give an undertaking that owners of metropolitan vehicles will continue to pay at least \$100 less than the average premium as at 30 June 1999? If not, why not?

**The Hon. JOHN DELLA BOSCA:** One year after the introduction of the new scheme—and I am pleased that at last the Opposition has acknowledged what I have said over the past 15 months—the majority of owners of metropolitan passenger vehicles are paying \$330 or less for their green slips. In the second year the majority are paying \$318 or less. At the time of the reforms the average green slip price was \$440. The reduction in price of green slips promised by the legislative changes has been achieved. In very simple terms, the premium being paid by the great majority of motorists under the new scheme is more than \$100 less than the premium they would have been paying without the Government's reforms. As to the specific question about anticipating future trends, as the Leader of the Opposition is well aware, the scheme is based on a set of arrangements that do not allow me, as Minister, to direct the premiums. I will make further announcements about premiums to this House and in the public arena in the near future.

### SNOWY HYDRO LTD INCORPORATION

**The Hon. IAN MACDONALD:** I direct my question without notice to the Special Minister of State. Can the Minister inform the House about any progress being made on the incorporation of Snowy Hydro Ltd?

**The Hon. JOHN DELLA BOSCA:** I am pleased to thank the honourable member for his role in a monumental achievement today. At 12.45 p.m.—a few minutes ago—Snowy Hydro Ltd was incorporated. Because of my commitment to this House and the importance I place on presenting myself at question time for scrutiny by all members of the Chamber, I was unable to join my colleagues and friends the Victorian Minister Candy Broad and the Commonwealth Minister Nick Minchin for the formal signing of incorporation in Canberra. Nevertheless, it is a very significant step.

Incorporation is the penultimate step on the way to corporatisation of the Snowy. Key documents signed today include the constitution of Snowy Hydro Ltd; the shareholders agreement between New South Wales, Victoria and the Commonwealth; and the allocation of shares to the States and Commonwealth. New South Wales will have 58 per cent of the total shares in Snowy Hydro Ltd, reflecting a conversion of the traditional arrangements. The next step in this historic process will be the corporatisation of the Snowy, which is expected to take place late next month. This will mark the formal commencement of Snowy Hydro Ltd operating as a corporatised entity in the national market and, more important, the commencement of the Snowy Intergovernmental Water Agreement. The Snowy Intergovernmental Water Agreement, as honourable members are aware, will allow for the revival of the Snowy River. I look forward to keeping the House further informed on the corporatisation of Snowy Hydro Ltd and the implementation of the water agreement.

### COASTAL DEVELOPMENT

**Reverend the Hon. FRED NILE:** My question is directed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Did the Premier announce yesterday that councils will be stripped of planning controls over the New South Wales coastline from Tweed Heads to the Victorian border for up to one kilometre from the beachfront? How does the Government plan to resolve future conflicts between it and local councils about developments? How does the Government plan to provide certainty for genuine worthwhile developments that create employment so that they are not forced to go to Queensland or Victoria?

**The Hon. MICHAEL EGAN:** I thank Reverend the Hon. Fred Nile for his question, because the Government's announcement yesterday is very significant. No-one in this State wants to see the New South Wales coastline—which is one of the most beautiful in the world—become a border-to-border Surfers Paradise. The very last thing we want in New South Wales is to see parts of our great State spoiled in the way that National Party rednecks destroyed Queensland. That would be a frightful development.

**The Hon. Duncan Gay:** Point of order—

**The Hon. John Della Bosca:** Sensitive.

**The Hon. Duncan Gay:** Yes, I am. The Treasurer is misleading the House. The fact is that the only high-rise developments in regional New South Wales were approved by Bob Carr and built under a Labor Government. It had nothing to do with the National Party.

**The Hon. Charlie Lynn:** The toaster.

**The Hon. MICHAEL EGAN:** The honourable member obviously has not been to Circular Quay or to the Opera House in the past 18 months. All the boofheads like him who decried the toaster should walk along there now and see that fantastic development. The Hon. Patricia Forsythe is nodding in agreement. The colonnades are better than those in Bologna.

**The PRESIDENT:** Order! I have warned members before not to use points of order to make debating points. I invite the Treasurer to finish his answer.

**The Hon. MICHAEL EGAN:** As I said, the colonnades are better than those in Bologna. We intend to ensure that this generation and future generations do not destroy the New South Wales coastline. We are very proud of the beauty of the New South Wales coastline, and we intend to ensure that it stays beautiful. Many of the local government bodies that are squealing now have let down New South Wales over an extended period. Many others are very good councils, by the way. Reverend the Hon. Fred Nile's question requires a more detailed answer, so I will refer it to the Premier and obtain a response as soon as I can.

### MINERAL PRICES

**The Hon. DOUG MOPPETT:** My question is directed to the Minister for Mineral Resources. Does the Department of Mineral Resources monitor the price of minerals extracted from New South Wales mines? Is the Minister aware of the disastrous fall in zinc prices and the volatile prices in the lead market? What steps has the Minister taken to liaise with Pasminco—which deals largely in those minerals and makes a significant contribution to the economy of Broken Hill—to ensure that the Government will be ready to help it through any difficult periods?

**The Hon. EDDIE OBEID:** I thank the Hon. Doug Moppett for that important question. No doubt we do monitor prices.

**The Hon. Patricia Forsythe:** "No doubt"?

**The Hon. EDDIE OBEID:** The Hon. Patricia Forsythe should listen to my answer. First she cannot spell and then she does not listen. Of course the Department of Mineral Resources monitors prices but we have no real influence over world market prices for zinc or any other minerals that we extract from our mines. However, we are keen to assist Broken Hill and particularly Pasminco, which has served that city well over many years. I assure the honourable member that we take every opportunity to assist miners and to reduce their costs. We do this by reducing freight and power costs and port charges.

**The Hon. Doug Moppett:** What about royalties?

**The Hon. EDDIE OBEID:** The Hon. Doug Moppett will have to talk to the Treasurer about that. Companies sometimes seek some assistance in the form of reduced royalties—they must make a reasonably sound economic case—and the Government always considers their requests. That money goes into consolidated revenue, which we use to develop State infrastructure. I am well aware of the matter raised by the honourable member, and the Government will continue to do everything within its means to maintain the profitability of mining by reducing government charges and ensuring that our miners can compete in the marketplace. Commodity prices in the mining industry have highs and lows, and that will not change. The world price for zinc will probably increase, but there is nothing that the Government or any other political process can do to influence it.

**The Hon. MICHAEL EGAN:** If members have further questions, they might like to put them on notice.

**Questions without notice concluded.**

*[The President left the chair at 1.06 p.m. The House resumed at 2.30 p.m.]*

**BUSINESS OF THE HOUSE****Postponement of Business**

**Committee Reports Orders of the Day Nos 1 and 2 postponed on motion by the Hon. Peter Primrose.**

**LIQUOR AMENDMENT (GAMING MACHINE RESTRICTIONS) BILL****GAMING MACHINE TAX BILL****LIQUOR AND REGISTERED CLUBS LEGISLATION AMENDMENT BILL****LOCAL GOVERNMENT AMENDMENT (ENFORCEMENT OF PARKING AND RELATED OFFENCES) BILL****STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL****INSURANCE (POLICYHOLDERS PROTECTION) LEGISLATION AMENDMENT BILL**

**Bills received.**

**Leave granted for procedural matters to be dealt with on one motion without formality.**

**Motion by the Hon. M. R. Egan agreed to:**

That these bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages, and the second reading of the bills stand as orders of the day for a later hour of the sitting .

**Bills read a first time.**

**REGULATION REVIEW COMMITTEE****Reports**

**The Hon. Don Harwin**, on behalf of the Chairman, tabled the following reports:

Report No. 16/52, entitled "Report on the University of Sydney Amendment By-Law 2001", dated June 2001  
Report No. 17/52, entitled "Report on Overseas Study Tour July 2000", dated June 2001

**Ordered to be printed.**

**DISTINGUISHED VISITOR**

**The DEPUTY-PRESIDENT (The Hon. Dr. Brian Pezzutti):** I acknowledge the presence in the President's Gallery of Mr James Batley, Australia's representative to East Timor. I extend to him a warm welcome to the House.

**FREIGHT RAIL CORPORATION (SALE) BILL****Second Reading**

**Debate resumed from an earlier hour.**

**The Hon. IAN COHEN** [2.34 p.m.]: It is disturbing that the only report upon which the committee has relied for information is that produced by Daryl Hull, known as the Hull report, Commissioned by the Rail, Tram and Bus Union [RTBU], which has extensive coverage of membership in this part of the rail system, and paid for by the New South Wales Treasury. The Hull Report is presented as an independent response to the Federal Government's decision to privatise National Rail. However, the decision to privatise National Rail was announced by the Federal Government almost two years ago and the Hull report was paid for by New South Wales Treasury almost six months after the New South Wales Cabinet made its decision to privatise FreightCorp.



The proposed plan for privatisation minimises the impact upon RTBU membership while seriously jeopardising jobs in all other parts of the rail system and the rolling stock industry and generally in rural and regional communities. Yet this is the report the committee relies upon almost exclusively for justification of its recommendations. This report has been elevated to legitimacy by default. The Hull report is more descriptive than analytical; it presents five proposals at its conclusion without any supporting documentation or explanation, and they have been accepted by the majority of the committee as the only options. The proposition that FreightCorp being sold at the same time as National Rail is the only means by which to save any jobs at FreightCorp is directly drawn from the Hull report, yet there is no evidence to support it.

The argument that this would also minimise social and other negative impacts on regional communities is a belated and token gesture in response to the Labor Party's 2000 Country Conference, at which major opposition to the proposed privatisation of FreightCorp was based upon the probable negative impacts upon rural and regional communities. It is not correct to say that the weight of community and other evidence presented to the committee supported privatisation.

First, the evidence presented favouring privatisation was predominantly grounded on opinion rather than information. There was considerable evidence based upon precedence and independent analysis that indicates that this privatisation is intensively problematic and requires further social and economic assessment of priorities in relation to employment, safety standards, environmental concerns, rural and regional needs, and commercial considerations.

The committee's analysis commences from a position that New South Wales FreightCorp will be overwhelmed by National Rail and must therefore be privatised if it is to survive. Considering the relative size of FreightCorp compared to National Rail, the issue that somehow it would just get swallowed up by National Rail does not make sense to me. These suggestions are also contrary to the evidence presented by Treasury and FreightCorp management that FreightCorp is the most profitable, commercially efficient and effective freight rail carrier in Australia. It is more commercially successful than National Rail. Any constrictions upon the commercial success of FreightCorp are not due to an inefficient FreightCorp management.

The report argues that because New South Wales FreightCorp will be unable to compete with National Rail once it has been privatised there will be massive job losses as FreightCorp withers on the vine and dies. A concurrent assumption is that if FreightCorp is privatised it will be stronger and more efficient and therefore will retain at least some of the jobs it currently supports.

FreightCorp and National Rail do not currently compete and there is no reason to believe they would do so if either or both were privatised. They operate in different markets with little overlay. There is no convincing evidence that FreightCorp would not be able to retain its market share or compete with a privatised National Rail. Any purchaser would have to compete against FreightCorp's existing strong market share and current dominance of the freight rail system.

FreightCorp's management has progressively worked to drive down its operating costs by increasing both employee and asset productivity. Evidence indicates FreightCorp to be an extremely lean operation. Essentially it is already functioning as a private operator. It is difficult to see how FreightCorp could possibly become more efficient unless it severely reduces services and/or staff.

Increased investment in infrastructure by the Government would generate opportunities for FreightCorp to become even more commercially successful, and would allow deeper market penetration by the existing commercial entity. The committee makes the erroneous assumption that National Rail and New South Wales FreightCorp must be sold at the same time to the same purchaser as the best means of retaining their sale price, and ensuring no competition between them, thus allowing both to survive. I wonder whether the Treasurer would be prepared to let me know if there is an intention or a possibility of selling FreightCorp to Lang Corporation. I would be very interested, if he happened to be listening. Obviously, he is not. Such is life!

There is little doubt that the Federal Government would prefer that FreightCorp did not exist as a commercial threat to National Rail in terms of attracting a purchaser and a good purchase price for its own national rail. Negotiations between the Federal and State governments have stalled. There is considerable evidence that Australian Competition and Consumer Competition [ACCC] would not allow the joint purchase of National Rail and FreightCorp, given the constraints of national competition policy. It is significant that the ACCC is currently investigating the operations of FreightCorp as being too commercially successful, to the point of excluding other operators from the market.

There has been inadequate consideration of the consequences of FreightCorp or National Rail being sold separately. Those who claim that rural and regional communities will be better serviced or, at least, suffer no lasting disadvantage from the privatisation of FreightCorp argue that the State Government can use 50 per cent of the sale price of FreightCorp to invest in essential infrastructure that will improve services to rural and regional communities and, accordingly, assume that the resulting upgrading of infrastructure will create jobs that will replace any jobs lost from the sale of FreightCorp. Significant evidence has been produced, even from those supporting privatisation, that there would be serious job losses under a privatised FreightCorp.

The evidence from interstate is that between 34 per cent and 50 per cent of existing jobs will be lost, and that a significant proportion of remaining jobs will be casualised or provided on a contract basis. Permanent jobs will be less secure than they have been previously. Evidence has also been presented that job losses would occur throughout the rail system and in the rolling stock industry as a direct result of privatising FreightCorp. Apart from arguments as to whether the State Government should spend money to improve infrastructures for profit-making private enterprise, there is also the question of why the Government has already made this investment if it is so essential to a successful rail system.

**The Hon. Michael Egan:** You don't want us to sell the infrastructure as well, do you? Is that what you're saying, that the network shouldn't be owned by the people of New South Wales?

**The Hon. IAN COHEN:** I am actually honoured that the Treasurer is paying attention at this point, because I asked him a question.

**The Hon. Michael Egan:** Is that what you're saying? He wants us to sell its lock, stock and barrel.

**The DEPUTY-PRESIDENT (The Hon. Dr. Brian Pezzutti):** Order! The Hon. Ian Cohen has the Chair's attention.

**The Hon. IAN COHEN:** And also the Minister's, which is very gratifying indeed. I appreciate it.

**The DEPUTY-PRESIDENT:** Provoking the Minister will get you absolutely nowhere.

**The Hon. Duncan Gay:** He asked the Treasurer a question when he was asleep.

**The Hon. IAN COHEN:** We know what Carr's cur would like to do with all these government instrumentalities.

**The Hon. Michael Egan:** Who's Carr's cur?

**The Hon. IAN COHEN:** You!

**The Hon. Michael Egan:** Is that me?

**The Hon. IAN COHEN:** Yes.

**The Hon. Michael Egan:** That's better than being Kerr's cur.

**The Hon. IAN COHEN:** It might be one step up, but it is a small step when you look at it historically.

**The Hon. Duncan Gay:** I don't think it is a step up.

**The Hon. IAN COHEN:** At this moment I do not wish to engender a debate across the great political divide.

**The Hon. Charlie Lynn:** There is no divide.

**The Hon. IAN COHEN:** There is not in most circumstances, except that the Deputy Leader of the Opposition expressed some lament at how country people—and I appreciate this—will suffer as a result of this privatisation. It is true that it may be easy for me as a Green, being on the sidelines and not able to make the big decisions of Government or even to take on the responsibility of Opposition. But up to this time I have not seen any privatisation that has been well received by communities throughout New South Wales. The privatisation of FreightCorp will do nothing for people in country communities. I asked the Treasurer, when he was not listening—

**The Hon. Duncan Gay:** He's gone back to sleep.

**The Hon. IAN COHEN:** I hope he has not gone too far back into the responsibilities of Treasury to answer my question. We had a brief emergence like the Antarctic summer, but I am afraid that the winds of winter have blown across the mind of the Treasurer once again, and I am unable to get my question answered, which is unfortunate. But I will try again next season.

There are inefficiencies in the current use of the network, which has potential for improvement. The investment of 50 per cent of the sale price of FreightCorp also seriously undermines the Treasurer's arguments that the State Government should not be in the business of providing a freight rail system, and that the money from the sale could better be invested in debt reduction or the provision of other essential social infrastructure. Evidence was presented that regional and rural communities will suffer serious job losses—

**The Hon. Michael Egan:** I've never said that we shouldn't own a freight rail network. There is a difference between the network and the business.

**The DEPUTY-PRESIDENT:** Order!

**The Hon. IAN COHEN:** He keeps making me lose my place. Perhaps I will get an answer. Now that the Treasurer is back with us and his concentration on Treasury matters has thawed, could I possibly ask him—

**The Hon. Michael Egan:** It's not question time. You had your opportunity during question time. You didn't even seek to ask me a question then. You can wait till tomorrow.

**The Hon. IAN COHEN:** I rose twice in question time today.

**The Hon. Michael Egan:** Who did you ask a question of?

**The DEPUTY-PRESIDENT:** Order! The member should not encourage the Treasurer. He will have an opportunity to ask questions in Committee.

**The Hon. IAN COHEN:** Perhaps when the Treasurer gets an opportunity to speak he will contemplate whether his Government is prepared to entertain Lang Corporation buying FreightCorp.

**The Hon. Doug Moppett:** Lang? L-A-N-G?

**The Hon. IAN COHEN:** Yes, with Costigan. Given recent historical events, I would find it very interesting—

**The Hon. Michael Egan:** Is that the same Mr Costigan who signed an enterprise agreement with the Maritime Workers Union? It is the same one, is it? Is that the same Mr Costigan who signed an enterprise agreement with the MUA?

**The Hon. IAN COHEN:** I would say it is the same Mr Costigan, the same Mr Costigan against whom the Premier was demonstrating with great aplomb down at the wharfs not so long ago.

**The DEPUTY-PRESIDENT:** Order! The member should not be distracted by the Minister.

**The Hon. Michael Egan:** So did I. That was a fair dinkum picket, not like the—

**The DEPUTY-PRESIDENT:** Order!

**The Hon. IAN COHEN:** I understand that the Treasurer has made a commitment to continue the community service obligation [CSO] payments for an indefinite period. Yet a major argument in the report is that the privatisation of FreightCorp will be so successful that CSO payments will become redundant. Scant regard is paid to ensure that rural and regional communities will continue to be serviced at an acceptable level when FreightCorp is privatised. There is no evidence at all that any level of service would continue if CSO payments were to cease. The committee heard evidence from current private operators in New South Wales that they want to cherry pick the more profitable coal lines. This will result in the inevitable abandonment of less profitable lines and the communities that rely on them.

It is certainly a dangerous assumption to make that standards of service and safety will not diminish in the privatised FreightCorp. It is noted that FreightCorp has made significant efforts to improve occupational health and safety conditions, for example the use of shorter shifts. Considerable evidence from overseas indicates that safety standards diminish in privatised transport systems. The obvious concern is that a private corporation might subsume safety issues in pursuit of profits. Despite numerous references in the report of the need for high safety standards, there is little evidence of the application of these standards in States that have privatised freight rail.

There is no suggestion of the manner in which these standards could be imposed or enforced in a privatised system. There is evidence that the major potential purchasers of FreightCorp buy their rolling stock and spare parts second hand from overseas. This has implications for quality, safety and job opportunities for Australian workers. There is general consensus that, for environmental and safety factors, the maintenance of rail transport infrastructure is the desired objective of any government seriously concerned about both local and global environmental issues.

There is a strongly held belief that a robust publicly owned FreightCorp organisation will create the greatest opportunity for streamlining, through innovative use of nodal rail-road loading facilities, for example. Any downgrading of freight-rail transport options will result in society facing increasing vehicle accidents and spills, with consequent run-off and environmental contamination. It is clear that there is a terrible human cost and financial impost associated with heavy vehicle traffic on national roads, given that rail freight is nearly seven times safer in terms of fatalities than road transport, and that 10 per cent of all road fatalities involve trucks. Heavy road vehicles represent 3.8 fatalities per billion tonne kilometres, compared to rail at 0.55 fatalities per billion tonne kilometres. Any downgrading of opportunity for rail transport will add to loss of life. An increase in human and wildlife deaths cannot be ignored. The impact of road noise on the social amenity of urban and rural communities is a significant quality of life issue. Such costs are seldom measured by compartmentalised thinking by government departments, particularly Treasury, failing to see the big picture.

Both State and Federal Governments are pursuing the path of greenhouse irresponsibility—be it the Federal Government's encouragement of road transport through fuel excise reductions, or the New South Wales Government's lack of support for rail and a potentially positive commitment to a greenhouse gas reduction strategy. Road transport uses more than three times as much fuel per gross tonne kilometre as rail, generating more than three times the quantity of greenhouse gas emissions. That is, heavy road vehicles generate 80.6 gigagrams of greenhouse gas per tonne kilometre, compared with 24.4 for rail. It appears that there has been no serious attempt to consider any alternative to privatisation. There has been no concerted attempt to consider the possibility of FreightCorp continuing to trade as a public corporation, how FreightCorp might purchase National Rail, or of FreightCorp merging with any other public freight rail system, such as Queensland Rail. The Hull report and the position of the Rail, Tram and Bus Union [RTBU] have been accepted without adequate analysis. Moreover, there has been failure to consider other possibilities, such as a joint venture between public and private enterprise.

**The Hon. Michael Egan:** Would you support that kind of arrangement?

**The Hon. IAN COHEN:** I would be open to seeing—

**The Hon. Michael Egan:** Well, don't sort of float things, pretending you are in favour of them, and then say you aren't.

**The Hon. IAN COHEN:** I am saying in this House that I would like to see what is a potential. No report was commissioned that evaluated the case for keeping FreightCorp as a public corporation—that issue was a bugbear to many other union groups and people directly involved. It is clear that the major purpose of the bill is to facilitate a joint sale of National Rail and FreightCorp. In February this year media reports suggested that Lang Corporation was interested in buying National Rail. An ABC news item circulated by the Parliamentary Library's Mark D'Arney on Tuesday 6 February stated:

The Lang Corporation has indicated it may be in the market for National Rail and the New South Wales entity, FreightCorp. The statement follows the company's announcement it had made almost \$200 million by selling new shares. Lang Corporation managing director Chris Corrigan confirmed at the company's annual shareholder meeting in Sydney today that it is very interested in National Rail. The Federal Government announced last year it wanted to sell the \$500 million company. But the New South Wales Government, which is a minor shareholder in National Rail, is on the record claiming the Commonwealth plans to sell it for around half its value. Mr Corrigan says the stevedoring company wants to expand its links between its port facilities, and National Rail would be in its sights. He also confirmed that Lang Corporation may also bid for the larger New South Wales Government-owned FreightCorp. The State Government is yet to decide when it will put FreightCorp on the market.

I would certainly be interested to hear from any member of the Government if, in fact, negotiations are taking place with Chris Corrigan and the Lang Corporation. I have attempted to seek an assurance from the Treasurer that the Government will rule out the sale of FreightCorp to this company that is controlled by the infamous Chris Corrigan. I now place that request on the record: Will the Treasurer, in his speech in reply, rule out the sale of FreightCorp to Lang Corporation?

**The Hon. Rick Colless:** He won't rule out selling it to anyone.

**The Hon. Duncan Gay:** Nor should he!

**The Hon. IAN COHEN:** It is good to see that you are all on the one side—true unanimity. I probably do not need to repeat that I have had concerns about the privatisation of FreightCorp all the way along the line. I was a member of General Purpose Standing Committee No. 4; I wrote a dissenting report, much of which I quoted as part of my contribution to the second reading debate on this bill. I believe the sale is not in the interests of the community. I believe the way this has been manipulated between the Government and certain of its Labor mates in the union movement does not serve the people of New South Wales well.

**The Hon. CHARLIE LYNN** [2.55 p.m.]: As has been previously advised, the Opposition will not oppose the bill, the object of which is to provide for the sale of the Freight Rail Corporation [FreightCorp] jointly with the sale of National Rail Corporation Limited. The explanatory note to the bill advises that the sale of FreightCorp is to be by one of the following methods: first, direct sale of the business undertaking of FreightCorp to a purchaser; second, conversion of FreightCorp to a company and sale of the company to a purchaser; and, third, transfer of the business undertaking of FreightCorp to a company incorporated on behalf of the State, and sale of that company to a purchaser. The Deputy Leader of the Opposition in the other House drew attention to the fact that in the ordinary course of events a particular method of sale would be selected for a sale of this magnitude and that that would be the subject of debate.

The past three decades have witnessed much worldwide debate about different aspects of privatisation, ranging from specific issues such as the definition, the efficiency issue and the role of government, to more general issues, such as the overall impact of privatisation on social and economic development. Some debate has been intuitive, pragmatic; some has been theoretical, political; and some has been ideological. Only this morning the newspapers reported on a great deal of violence in Papua New Guinea, which has been motivated by local concerns about the privatisation of government-owned assets, such as PNG Banking Corporation, Telikom, Elcom and Air Niugini. The debate has the ability to inflame national tensions. Mr Paul Starr, in an article titled "The Meaning of Privatisation", discussed the political meaning of "privatisation". He pointed out that the term did not gain wide circulation in politics until the late 1970s and early 1980s when conservative governments came to office in Great Britain, the United States of America and France.

Since then, in political terms, "privatisation" means primarily two things: first, it means any shift of activities or functions from the State to the private sector; and, second, it may also mean any shift in the production of goods and services from public to private. Thus, the broader definition of "privatisation" includes all reductions in the regulatory and spending activity of the State; while the more specific definition of "privatisation" excludes deregulation and spending cuts. Controversy regarding the merits and demerits of privatisation do not seem to have stopped privatisation, it having been widely practiced around the world. If privatisation "threatens an attack on the structure of our society", as our political opponents in the Australian Labor Party have painted it, why are countries around the world hastily privatising government-owned assets?

Among all the criticism, and especially the deliberately misleading attempt by Labor to create fear, insecurity and hostility amongst the general community, we must ask the question: Has privatisation—which in the words of Harvard scholar Dr John Donahue is "the practice of delegating public duties to private organisations"—worked at all? If it has worked, what is the impact of privatisation upon general economic development of the nation, and upon the Government, consumers, workers, competitors and subsequent foreign investment, among many other things? So far all economic and non-economic indicators are generally in favour of privatisation. For example, the experience of the World Bank group in the past few decades strongly evidenced that privatisation has played a positive role in the context of its broader goals of economic development in a variety of economic and social settings, both in developed and developing countries.

The World Bank found that most success stories of privatisation come from high or middle income countries—namely, developed countries. By the early 1990s, approximately 70 per cent of privatisation had taken place in developed countries, with 66 per cent over the first couple of years during the 1990s in the former

German Democratic Republic alone. A World Bank sponsored research project has also found that the benefits from properly executed privatisation are considerable, as revealed by examples in developed countries, such as France, Japan, New Zealand and the United Kingdom; in Latin American countries, including Chile, Jamaica and Mexico; in African countries, such as Niger and Swaziland; and in Asia, including Korea and Malaysia.

**The Hon. Michael Egan:** This sounds like a boring speech by a staffer.

**The Hon. CHARLIE LYNN:** The point of the speech is to expose the hypocrisy of you and your Government on this issue. As with rail operations, which you described as above line and below line, so is your attitude to privatisation. It is below table as opposed to above table. That is the difference between you and us. Yours has to be underhand and below the table. The research made a number of important findings:

Privatisation significantly improved domestic welfare in 10 of the 12 cases analyzed. Productivity went up in nine of the twelve cases and stayed the same in the other three. Relaxation of investment constraint and diversification into various forbidden products and markets resulted in massive expansion in a number of cases. Workers in the firms were not worse off after sale (even taking into account all layoffs) and in three cases were significantly better off. Buyers made money, but the other stakeholders in the process also gained. Consumers benefited or were no worse off in all but 5 cases.

New World Bank research on the welfare consequences of privatisation of 12 firms in the United Kingdom, Mexico, Malaysia and Chile provided systematic and quantifiable evidence concerning the effects of privatisation on the efficiency of the enterprise, on subsequent investment, and on consumer welfare. I quote part of the report, which says:

The cases cover telecommunications (3 firms), airlines (4 firms), electricity (2 firms), a lottery company, a port, and a transport company. The research methodology captures the impact of divestiture in all important economic actors (the government, consumers, buyers of firms, workers, and competitors). Unlike many earlier analyses, it isolates the effects of privatization on firm behaviour from current charges in, for example, macroeconomic policy, technology, demand structure and the regulatory framework and addressed the counterfactual question of what would have happened in the absence of divestiture. In 11 of the 12 cases analyzed, divestiture improved domestic welfare; the exception was Mexican Airlines.

The fact that privatisation is widespread and accelerating around the world sends a strong message. It does have a mandate. Privatisation certainly has a mandate here in Australia too. It has always been one of the core policy areas of the Liberal Party, which is committed to privatisation. Back in the 1980s there was a renewed cultural enthusiasm for privatisation around the globe. The Greiner Government in New South Wales at the time was at the leading edge of the movement. As a result of our consistent efforts the Greiner Government initiative of privatisation or corporatisation has become a very important part of Australia's national economic policy. It has led to the privatisation of a series of State-owned entities in a number of traditionally strategic areas: under the Liberal Government Telstra, and prominently Qantas and the Commonwealth Bank; and now FreightCorp and other government enterprises under Labor—even though Labor hypocritically promised the Australian public that privatisation would never be on its agenda. Australia is at the cutting edge of world privatisation practice.

The *Sydney Morning Herald* correctly reported on 11 November 2000 that Australia is a world leader in the privatisation of government assets and services, second only to the United Kingdom in dollar terms and second only to New Zealand as a percentage of gross domestic product. The Commonwealth has sold \$48.4 billion worth of assets since 1989, while the States have racked up \$46.8 billion. Victoria has privatised some \$31 billion worth of government assets, while New South Wales lags behind with \$3.1 billion—courtesy in part of the \$1.2 billion from the float sale of the GIO and the State Bank, and \$96 million from the sale of the New South Wales Grain Corporation. The Victorian experience was motivated by the fact that the Kane-Kirner Labor governments had transformed the State into an economic basket case.

It took the vision and political courage of Liberal Premier Jeff Kennett to bring it back from the brink with a massive sell-off of State assets. This Carr Labor Government is a late convert to the privatisation of rail freight. Tasrail and AN South Australia went in 1997; Victoria's V/line went in 1999 and National Rail will go in 2001. Only FreightCorp and Queensland Rail remain government owned. What the *Sydney Morning Herald* article failed to point out is that many western economic powers—such as the United States of America, Canada and Japan—are in a different situation from Australia and United Kingdom. According to the book of Harvard scholar Dr John Donahue, titled *The Privatization Decision: Public Ends, Private Means*:

America never could equal other countries in selling off government enterprises and assets for one simple reason: America has never had all that many Government enterprises and assets. In the late 1970's state-owned enterprises claimed an average 6.7 per cent of the labor force in the other developed market economies, but only 1.5 per cent in the United States. America was the only major country with an entirely private telecommunications industry. No other industrialized nations except Japan and Canada have had any privately owned railroads, and even Japan and Canada had only modest private sector involvement in rail; the United States had an overwhelmingly private rail industry, with only modest public sector involvement.

The World Bank observed that for privatisation to have positive and enduring effects certain elements are necessary: a strong political commitment, the right macroeconomic conditions, public consensus and understanding, and transparency in the process. Only when privatisation is correctly conceived and implemented will it foster efficiency, encourage investment and thus new growth in employment, and free public resources for infrastructure and social programs. With a strong political commitment the Liberal Party has developed some very important principles to guide privatisation practice in Australia. These guiding principles are best illustrated in Prime Minister John Howard's speech entitled "A Case for Privatisation" when he addressed the Australian Institute of Political Science in his capacity as Leader of the Opposition early in 1985. He said:

Firstly, whether or not the sale of an asset or a transfer of a function either in whole or in part will result in benefits to the public, which will be the principal criterion governing the individual decisions in each and every area;

Secondly, in any decision taken to privatize, the position and job security of employees of government utilities etc. will be a paramount consideration;

Thirdly, any sale of assets will not be such as to destroy or reduce the quality or availability of services existing in the remote areas of Australia.

John Howard predicted that these principles would remain constant, and these principles have guided Australian privatisation practice in the last two decades. The privatisation of Telstra is one of the many examples of success. I informed the House on 27 February this year of the Federal Government's Telstra policies. I would like to restate some of the important facts. The privatisation of Telstra has led to price reductions and improved services. This is the most effective way to benefit the general community, including our rural and regional communities. Now the general community has benefited from the Federal Coalition's competitive telecommunications policies. Customers now have greater choice in service providers and significant price reductions have occurred.

During the Coalition's time in Government untimed local calls have come down to as low as 16¢, STD charges have dropped by as much as 45 per cent and international charges by as much as 80 per cent. People living and working in the bush also share the benefits of the telecommunications revolution through the Networking the Nation program. This has provided \$250 million to improve telecommunications infrastructure in regional areas and through community-based programs. Privatisation seeks to create new market relations and promises results comparable to or superior to any conventional public programs. The Coalition has never denied that there are always risks and rewards involved in the privatisation of any public assets or enterprises. There are always risks and rewards in any progressive reforms, regardless of how society as a whole is going to benefit. Privatisation is, after all, a complex process.

There are many factors that might eventually affect the outcome including, but not limited to, general macroeconomic and microeconomic conditions, how the privatisation is managed and whether we have the legal framework in place to provide safeguards, and effective mechanisms to enforce compliance once any party to the privatisation agreement fails to comply with the agreement. This gives rise to an important question of how privatisation should be properly managed. Again, experience from other countries demonstrates that privatisation requires a managerial set-up that ensures speed, transparency and consistency in implementation. There is a strong case for privatisation in Australia and the Liberal Party has proudly held the record of being consistent in pursuit of that policy. As I said earlier, back in 1985 when the Coalition was still in opposition federally, Mr John Howard made a strong case for privatisation when addressing the Australian Institute of Political Science. He rightly pointed out then that the Labor Party did not carry a torch for the essential morality of the public sector at all times.

Mr Howard gave interesting examples at the time, including the then Prime Minister, Bob Hawke, adopting "a position of unequivocal support for the public sector" in November 1981. Just over a year after his election to Government he was busy proclaiming all the virtues of the private sector and profitability. In 1983 Paul Keating went further and praised the economic environment of the Menzies years—oil refineries and AWA were sold off by the Menzies Government. As Mr Howard said at that time—and it is still true to this day—Mr Hawke is not the only Labor Minister to resort to tradition-bound ideologies. Privatisation has been labelled by Labor and the unions as "a strategy to bring the conservatives back into power", "fiscal irresponsibility", "ideologically blinkered", "one-off fire sales", and so on. In recent years Labor has used the same shallow scare tactics again and again by throwing hefty criticism on privatisation. In the privatisation debate there is a large element of nonsense, as was observed by Dr John Donahue more than a decade ago in his book to which I have referred previously. He wrote:

Proponents are fond of invoking the efficiency that characterizes well-run companies in competitive markets and then, not troubling with any intervening logical steps, trumpeting the conclusion that private firms will excel in public undertakings as well. To go from the observation that private companies tend to do what they do better than public agencies, to the assertion that

companies should take over the agencies' duties, is rather like observing that the clients of exercise spas are healthier, on average, than the clients of hospitals and concluding from this that work-out coaches should take over from doctors. Public tasks are different, and mostly harder.

Dr Donahue put forward a strong case for privatisation and, in his words, "any opportunity to serve the public interest more efficiently warrants respectful appraisal". Failure to serve the public interest has been the focal point of arguments against privatisation in the past. As I noted, Bob Hawke once commented that a shift towards the private sector "would mean a diminution of public scrutiny of social accountability for major economic decisions which have significant social impacts". This outdated view remains the key argument against privatisation today, particularly among the Labor Luddites of the Left. In essence, as Dr Donahue correctly pointed out, "an openness to privatisation by no means implies contempt for government bureaucracy"; and "public agencies are characteristically structured to guarantee due process and administrative fairness, to ensure that all considerations get proper weight and that no citizen's rights are violated". In other words, privatisation is about retaining collective financing but delegating delivery to the private sector. Some years ago Mr Howard noted that privatisation does not provide the panacea to fix or allow economic and social challenges. He said:

Privatisation is not some new-fangled panacea which in an easy painless way will solve all the problems of bloated government expenditure. Nor is the Liberal Party's commitment one of blind ideological zeal to sell every government asset it can lay its hands on irrespective of the rationale or the consequences.

The Prime Minister is clearly saying that certain functions—such as our national defence, criminal court management, tax system administration, et cetera—would be performed only by public organisations, and must be performed well. On balance, as John Donahue commented in his book:

The cause of good government would be better served by delegating when it is possible to delegate, and by concentrating attention of public managers on tasks that are central to the mission of governance.

However, that does not deny the fact that some moral, philosophical and social goals may be better pursued in the name of the State. The philosophy of the current Labor Government is driven by the much-reported Richo bible of doing "whatever it takes". The public has every right to be worried about such a brutal approach to government for the better good of our society with such a philosophy. The proof is in the pudding. This State Labor Government has failed to develop any consistent policies concerning privatisation. It does what it takes to serve its purpose at the time. The Government's attempt to privatise our electricity assets provided valuable insight into its modus operandi. The debate exposed a deep philosophical divide on the issue of privatisation.

The Luddite Left came out strongly against it; the Richo Right just does whatever it takes, regardless of the ideological values at stake. Labor is expert at creating public fear, insecurity and hostility, and it has perfected the art of political spin to mislead people in relation to many political issues. The current workers compensation debate is a classic example of how it operates. Another example is Labor's research paper written by the Australian Labor Party steering committee in 1985. That 50-page paper, entitled "Privatisation and Deregulation", makes an assessment of the impact of the privatisation policy on a number of issues. When it comes to what privatisation and deregulation would mean to the Australian community, the paper describes privatisation as "a threat to society", claiming that privatisation and deregulation "threatens a major attack on the structure of our society". One only has to look at the theatre of the picket line around Parliament House last Tuesday to see how they orchestrate a crisis and then—presto!—they solve it.

**The Hon. Michael Egan:** That was not a picket.

**The Hon. CHARLIE LYNN:** If it was not a picket, the Treasurer should ask the Hon. Peter Primrose, who is sitting behind him, why he did not join the others to walk across it.

**The Hon. Michael Egan:** That is a very good question.

**The Hon. CHARLIE LYNN:** Yes, it is a good question. Maybe we should ask that question during question time. Labor's intentions are hampered by its lack of transparency in the decision-making process and inconsistency in its policy areas. That is because it has to overcome the political dilemma that privatisation is not part of its party policy. Its policy clearly states that it is best to keep public enterprises in public hands. In this context, it is quite interesting to observe that even when Labor realises that privatisation is the only choice—such as the case with FreightCorp and other State-owned projects—it pursues the agenda secretly while publicly claiming that it will keep public assets in public hands. Its hypocrisy knows no bounds; it has no shame. We have only to look at Labor's performance over the past six years, since it has been in government, to realise that. Electricity privatisation is the prime case study of its hypocrisy. In 1995 at the State ALP conference, the Treasurer denied that he would privatise Pacific Power by calling its privatisation "a socialist Left lie". The Treasurer claimed, "Privatisation is not on our agenda."



**The Hon. Michael Egan:** It wasn't.

**The Hon. CHARLIE LYNN:** The Treasurer said that privatisation was not on his agenda. But two years later, in 1997, as Treasurer, he announced his plan to privatise the electricity industry in New South Wales.

**The Hon. Michael Egan:** It was not on the agenda in 1995; it came on the agenda.

**The Hon. CHARLIE LYNN:** They quickly took it off the agenda, again, when you tried to put it on there. This change of attitude of the ALP towards electricity privatisation has encountered strong opposition by unions, individuals and New South Wales branches of the ALP, who accused the ALP of ignoring the lessons indicated by the 1996 Federal ALP defeat and breaching the iron-clad commitments given by Bob Carr and the Hon. Michael Egan during the 1995 State election campaign and since. Members have called upon the Premier and Treasurer to seek positive solutions to New South Wales infrastructure requirements, not solutions involving a contraction of the public sector, losses of local jobs and control of basic services to foreign-owned multinationals. It is the ALP established policy to ensure continued, affordable provision of these crucial services. In more recent times, Labor's hypocrisy is best illustrated in FreightCorp, amongst other instances. During the 1999 State election campaign, Mr Scully attacked Coalition plans to sell FreightCorp claiming, "The Carr Labor Government will ensure these services remain in public ownership."

**The Hon. Rick Colless:** He didn't, did he?

**The Hon. CHARLIE LYNN:** He did.

**The Hon. Duncan Gay:** Where was that?

**The Hon. CHARLIE LYNN:** The 1999 State election.

**The Hon. Duncan Gay:** Who said it?

**The Hon. CHARLIE LYNN:** The Minister for Transport, Carl Scully. It will be interesting to see whether this is one of the re-announcements that they trot out every couple of months. The head of the union movement and current Labor fixer, the Hon. John Della Bosca, was among senior Labor figures to call privatisation into question. He said:

What people made clear tonight is that they are very concerned about privatisation, they are very concerned about the way in which parties play with the State's assets.

I can understand why he is not in the Chamber at the moment. The New South Wales Government's previously hardened privatisation advocate and the Premier's parrot, the Treasurer, also gave a strong statement against the sale on ABC television. He said:

The people are overwhelmingly opposed to it and I think until such time as they change their mind, and it won't be within the next four years, certainly it is completely off the agenda.

**The Hon. Michael Egan:** That was electricity.

**The Hon. CHARLIE LYNN:** No, FreightCorp—you said it on ABC television.

**The Hon. Michael Egan:** I never said that in relation to FreightCorp.

**The Hon. CHARLIE LYNN:** Well, you should go and look at it.

**The Hon. Michael Egan:** No, you have got a silly researcher—probably on work experience!

**The Hon. CHARLIE LYNN:** The Treasurer should go and listen to it—he is in denial about a few things he is supposed to have said.

**The Hon. Duncan Gay:** He has said so many things, he cannot remember.

**The Hon. CHARLIE LYNN:** Yes. Then, true to form, only 18 months later the State Labor Government announced that FreightCorp would be sold in 2001. State Cabinet took an in-principle decision in March 2000 to sell FreightCorp despite Australian Labor Party policy specifically declaring that "a Labor

Government will develop the existing publicly owned transport industry incorporating FreightCorp and retain it all in public hands". On the privatisation of FreightCorp the ALP caucus and the Labor Council indicated support for the potential \$1 billion windfall. Labor's right-wing headed off a revolt amongst rank-and-file members at the Country Labor Conference at Coffs Harbour earlier this year when Premier Carr said that the conference had done the right thing in backing the decision to sell FreightCorp. He said, "New South Wales Labor has opted for job creation over a sentimental, ideological position. This is fundamentally the defining approach of New South Wales Labor. We are a practical party of government trying to solve problems for the people of New South Wales."

**The Hon. Michael Egan:** Who said that?

**The Hon. CHARLIE LYNN:** Your Premier.

**The Hon. Michael Egan:** He pinched my lines.

**The Hon. CHARLIE LYNN:** You are obviously his parrot in this place.

**The Hon. Michael Egan:** No, he stole my lines.

**The Hon. CHARLIE LYNN:** You are probably sitting on the same perch. After the right-dominated Labor caucus agreed to the sale, the Premier's parrot finally went public on 7 September, and since then Labor factions have been fighting an undercover battle. The decision has also affronted other FreightCorp stakeholders such as farmers, miners and country residents, not necessarily because they are against privatisation but because they were ignored by the Government throughout the process. The right-dominated administrative committee has ignored these protests but the real test will impact on Labor's vote in the bush.

The privatisation of FreightCorp breaches a promise made by the Minister for Transport, Carl Scully in March 1999 that FreightCorp would not be sold. The move has angered the ALP left, the Australian Services Union and the Australian Manufacturers Workers Union. The Treasurer defended the sale as a pre-emptive move to preserve jobs amid fears that the National Railway Corporation sale of a competitive operator could see the cherry picking of FreightCorp's lucrative Hunter Valley coal contracts. "This was a choice between ideology and job protection. I am pleased to say that job protection won," the Premier said. For the left it is a similar problem. If they stand on their ideological digs, they should cross the floor and vote against it. However, this would have an adverse effect on the only job they are capable of holding down and would impact on their access to the Parliamentary Dining Room and superannuation benefits. Therefore, job protection also won out for them! If they were committed, they would cross the floor and vote against this bill, but when they balance what is at stake—ideology or access to the Parliamentary Dining Room—they choose the dining room every time.

The *Australian Financial Review* revealed early in 2000 that the Government had launched a behind-the-scenes push to sell FreightCorp in its first privatisation move since 1998. The Treasurer again argued that FreightCorp would lose hundreds of jobs if National Rail were privatised and FreightCorp remained in government ownership. He said:

The Commonwealth has ruled out FreightCorp buying or merging with National Rail. The only other way to create a large and strong New South Wales based rail freight operator is to sell FreightCorp and National Rail to the same bidder.

FreightCorp employs 2,200 people across New South Wales, 45 per cent fewer than in 1996. The Treasurer said that every other State government except Queensland had sold its rail freight to provide operations to private operators in recent years. He said that in each case staff numbers had increased post-privatisation. The Treasurer is understood to have clashed with the Minister for Transport, Carl Scully, over what should happen with the money. Mr Scully and his caucus allies wanted some of the proceeds to go into an improved rail maintenance program, with emphasis on the crumbling country rail network. The convener of the left faction in the New South Wales parliamentary Labor Party, Mr Bryce Gaudry, accused his own government of taking a closed-door approach to the future ownership of FreightCorp. He said that left members of the State parliamentary caucus had voted this weekend to oppose any privatisation and wanted more open consultation from the Government about the future of the rail carrier.

**The Hon. Michael Egan:** I spoke to Mr Gaudry today.

**The Hon. CHARLIE LYNN:** You should have spoken to him earlier during the process because you are not only leaving Mr Gaudry and his Labor left colleagues out of the process; you are also leaving out every

other stakeholder and the general community. Mr Gaudry said, "The Cabinet decision must be made in line with the New South Wales ALP policy on asset sales and private infrastructure which demands a broad objective and a factually based consultation process involving unions and all sectors of the community." The privatisation of FreightCorp is embraced by Mr Keene of Graincorp, who was quoted in the *Land* on 14 September last year as saying that the FreightCorp privatisation was exciting and would open up opportunities to change the rail system. The deputy chief executive of the New South Wales Farmers Association said:

Our members are somewhat indifferent about who owns FreightCorp. They just want performance.

Unions and ALP members, especially those in the Hunter, are upset and strongly resist the State caucus decision, which is contrary to New South Wales Labor Party policy, which is to retain FreightCorp in public hands. The State Secretary of the Australian Manufacturing Workers Union, Mr Paul Bastian, is concerned that the FreightCorp sale had the potential to undermine Country Labor's attempts to attract regional voters. He is probably more concerned that this is just another issue that threatens to expose the hypocrisy of this urban Labor fringe. Privatisation cannot be justified on economic reasoning alone. One must also consider the social, political and environment implications of the sale of such an important asset as FreightCorp, particularly on regional and rural New South Wales. This concern is also expressed in the views of Prime Minister John Howard on mutual social obligation and community partnerships in seeking to maintain a proper balance between economic prosperity and opportunity, and social and environmental responsibility.

Rail industry specialists have said that FreightCorp had long been eager to participate in the national rail privatisation on its own or as part of the consortium. One prominent investment banker has advised that the possible sale of National Rail and FreightCorp at the same time would attract bidders keen to buy both. He went on to say that the businesses complemented one another, with National Rail strong in intermodal long-distance work and FreightCorp strongest in bulk cargoes such as coal. The Government obviously agreed with this proposition but knew it would face stiff opposition from the union movement. It, therefore, funded a study by the right-wing Rail, Tram and Bus Union to justify its support for the sale—and Mr Nick Lewoki duly delivered.

The Secretary of the Australian Manufacturing Workers Union, Mr Paul Bastian, fought a gallant rearguard action by advising that the privatisation of freight rail in other States had led without exception to job losses, with 45 per cent of jobs being lost in Victoria, 35 per cent in Tasmania, and more than 30 per cent of the employees in South Australia being moved to casual status. Despite all the Labor bluster on protecting jobs here in New South Wales, the work force in FreightCorp dropped from 3,115 to 2,528 between 1998 and 1999 and now stands at 2,250.

In conclusion, I refer to the rural and regional impact statement on the sale of FreightCorp, which itself concluded that the sale is expected to have a number of benefits for New South Wales, particularly in rural and regional communities where it is recognised that rail freight operations are an important part of the economic infrastructure. The impact statement reported that the long-term competitive viability of rail freight in the national and freight market is expected to be strengthened, as a potential merger of FreightCorp and the National Rail Corporation will establish an organisation more fully able to exploit rail freight's natural competitive advantages. The report notes that the merger would not be achieved without the sale of FreightCorp because of the Commonwealth Government's restriction on government-owned entities bidding on the National Rail Corporation. The report also concluded that long-term employment prospects in the rail freight sector in New South Wales would be enhanced by a more viable and competitive position. It noted that in contrast, the security of long-term employment opportunities in the industry would be reduced if a merger of FreightCorp with the National Rail Corporation did not occur and that an employee-transferred package will ensure a fair transition for current FreightCorp employees.

I note the concerns of the Deputy Leader of the Opposition and the Hon. John Jobling with regard to community service obligations and the Government's commitment to support rail freight operations in rural and regional New South Wales through a combination of product and line subsidies to ensure that otherwise non-commercial rail freight services in rural and regional New South Wales will continue. The Opposition supports this commitment and will ensure that the Government is held accountable to make sure that it meets the commitment in all respects. The comment regarding recent Government initiatives to enhance rural line maintenance funding and the claim that it will further support rail sector employment in rural and regional New South Wales needs to be challenged. The neglect of what the Government calls below-line maintenance has been inexcusable and irresponsible.

Trains must sometimes slow down almost to walking pace in order to negotiate some sections of our rail network. At other times, when trains can get up a bit of speed, it is akin to travelling through a force 10 gale.

If Country Labor has any clout at all amongst its urban-dwelling majority, it must demand a greater slice of the pie to provide for this long-neglected area. We concur with the conclusion that an enhanced, competitive rail network will contribute to greater environmental and safety outcomes compared with a scenario in which road transport's share of the national land freight market remains at its current high level or increases further.

This issue has exposed a fundamental difference between Labor and Liberal philosophy on privatisation and their respective *modus operandi*. Under Labor, we have a secretive, arrogant and hypocritical Government that is wedded to the Graham Richardson fixer's bible of doing or saying whatever it takes. I would therefore disregard any guarantees that this Treasurer gives about improving rail freight operations so as to enhance employment opportunities and benefits for rural and regional New South Wales and to minimise the commercial risk to government. These guarantees include maintaining New South Wales rail lines, retaining passenger services in public ownership, providing support for rail freight operations in rural and regional areas through a combination of above-rail and below-rail community service payments, and guaranteeing the jobs of all FreightCorp employees. As I said earlier, the basic difference between the two main parties is that Labor has a below-table system of planning, dealing and negotiation while the Coalition parties have an above-table, transparent, accountable and honest system. The difference is that simple. The Opposition does not oppose this bill.

**Ms LEE RHIANNON** [3.31 p.m.]: I support the comments of my colleague the Hon. Ian Cohen, who clearly outlined the Greens abhorrence of the principles of this bill. It is an unfortunate day for the people of New South Wales as Labor and the Coalition join once again to push through their conservative economic agenda. We must ask: How low can Labor go? The introduction of the terrible workers compensation legislation and this bill at virtually the same time is a disturbing development in Labor's policy trend under Premier Carr and the Treasurer. For 150 years a publicly owned freight rail network has provided a valuable public service to the people of New South Wales. Indeed, the history of this 150-year-old service is closely linked with that of the Labor Party. I have talked to many Labor supporters who are very proud of their efforts in fighting to retain publicly owned facilities, including this country's railway system. Many Labor leaders have also recognised that this priority system requires considerable resources.

This legislation is a huge step backwards. Under the bill, the rail service will no longer be publicly controlled and will no longer operate for the public benefit. It will operate for the private benefit of its owner and, like every other company, it will be run with profit as the foremost objective. This will have very serious implications for rural and regional New South Wales. When profit is the chief objective certain services go out the window. Opportunities will diminish in areas of low population. That is why our forebears considered carefully the need to establish a publicly owned national rail network: they knew that that was the only way to have a fair system and to assure services to sparsely populated areas.

**The Hon. Doug Moppett:** The railway does not go there now.

**Ms LEE RHIANNON:** That is no reason to scrap the current system. Labor, both federally and in this State, has made an issue of the part-privatisation of Telstra and its impact on rural and regional communities. This bill exposes that concern as a hypocritical sham. The Labor Party is now the party of privatisation. When Labor members express their concern they are crying crocodile tears. This is the party that privatised Qantas, the Commonwealth Bank—

**The Hon. Michael Egan:** I supported all of them.

**Ms LEE RHIANNON:** I note the Treasurer's oft-repeated boast. More and more people are beginning to understand what he has done to the Labor Party in this country. It goes to show that when in opposition the Labor Party makes the right noises but when in government it implements the right-wing agenda of the Liberals. Some Labor members—unfortunately the Treasurer is one of them—are proud to pinch Opposition policies. I wonder what will happen to Telstra if Labor wins the next Federal election. The Greens believe the Federal Coalition Government should go; it is time that we had a Labor Federal Government.

**The Hon. Michael Egan:** No, you don't. You support Tory governments all over the place. That's why you exist.

**Ms LEE RHIANNON:** That is another lie from the Treasurer. We do not expect Labor to do the right thing if it gains government federally. We are concerned that a Labor government will privatise Telstra. I was pleased to see today's Morgan poll results, which show that support for the Greens has reached 5.5 per cent. If that support were reflected in a Federal election vote, more Green senators would be sent to the Federal Parliament. We could then work with Labor to provide a decent program for the people of New South Wales.

FreightCorp conducts much of its business in rural and regional areas and it is those regions that will feel the impact of this privatisation. Many of FreightCorp's routes exist only because of cross-subsidy with other more profitable routes, and following privatisation it is the former that will be the first to go in rural and regional New South Wales. The Government has produced a rural and regional impact statement to accompany this bill. It is another piece of paper that the Government knows it must rush to this House because these days it must talk to crossbenchers and do a little lobbying. The statement was rushed into this place this week, and it is a very poor document. It is a case of going through the motions. It is a classic example of writing the arguments to suit the conclusions. The statement argues that, with continued public ownership of FreightCorp, rail's market share of the national land freight market will be less secure than if FreightCorp were privatised.

That is an interesting point. The argument is that a government-owned rail freight corporation is less able to compete with trucking than a privatised rail freight operation. If the Government owns the railway tracks, the freight trains and the roads, it controls funding to both rail and roads and it sets the regulations under which road freight operates. In that scenario the Government is very much in the box seat when it comes to determining how well rail freight can compete with trucks. The fact that rail freight does not have a greater market share at present is directly attributable to government policy. Governments of both political persuasions have long favoured road over rail—or private over public. The Treasurer has confirmed that that is his preference. Public funding has reflected this favouritism.

The Government has deliberately run down FreightCorp in the State and has delivered massive subsidies to its competition. That is the explanation that the Treasurer does not want to acknowledge. The Government and the Treasurer now have the nerve to argue that FreightCorp must be privatised if it is to compete. That argument is no surprise as the network has been run down. According to the Government's distorted logic, privatisation will allow it to flourish and protect and create jobs. The reality is that so long as the Government continues to favour roads over rail, rail will struggle. Privatising FreightCorp will only make the situation worse by eliminating control and closing unprofitable routes. Privatisation has had a chequered history under Labor.

**The Hon. Michael Egan:** Do you support toll roads?

**Ms LEE RHIANNON:** The Treasurer is trying to divert attention from privatisation. This is where the Government has a real problem. The Premier and the Treasurer suffered a major loss over electricity privatisation. One would think any normal Labor leader receiving such a major setback would sit down at the debriefing, as obviously they do, and think, "Why did we lose so badly?" What did the Treasurer learn when he failed so badly on the privatisation of electricity? It was not that the people did not like it. He learnt never to use the "P" word—"Never mention privatisation. Just get the union on side and talk jobs, jobs, jobs. That is how we can con people into thinking we are doing the right thing by you, support our program." The subtext of all this is another privatisation story, but this time the Treasurer was successful. However, it certainly is nothing to be proud of, and we are hearing that a majority of Labor Party people certainly are not pleased about it.

This privatisation will lead to job losses in rural and regional Australia once the three-year employment guarantee is over. It will hit local economies hard. What a pathetic measure this delivers. I challenge the Government to put forward a single example where privatisation of a large government asset has not led to job losses and a more restricted centralised service. I ask the Treasurer to reply to that question because we would be like to hear the answer.

Once again the Greens will be in the minority regarding this bill, but we believe events will prove us correct in our arguments that privatisation of FreightCorp will eventually lead to fewer jobs, fewer services and less public control. We must ask again: Why is the Government, a Labor Government, privatising a public asset that is of great importance to rural and regional communities? The same question could be asked about workers compensation reforms, and the answer would be much the same: This Labor Government is more concerned with the big end of town and with maintaining its credit rating. That is the driving force for the Treasurer. It is more than likely that what he thinks of in the shower each morning and when he goes for his walk on Sunday is credit rating, credit rating, credit rating.

**The Hon. Michael Egan:** Triple-A all round.

**Ms LEE RHIANNON:** His head is nodding furiously! The day that jobs are sacrificed for that reason will be a sorry day for the people of New South Wales. The Australian Labor Party [ALP] now is as much a party of capital as the Liberal Party is. Although it gives me no pleasure to say so, the ALP is every bit a bosses

party, a party that genuflects to the big end of town every time and craves the donations to roll in. However, not all Labor Party members are of that mind. Recently I received a copy of a media release of the Wallsend State Electorate Council [WSEC], the members of which come from those sections of the Labor Party in the Hunter valley that have fought hard against this privatisation. Many of its members contacted our office today about this bread and butter issue because it is a sorry day for them. The media release stated:

The Wallsend State Electorate Council of the Australian Labor Party has again called on the New South Wales Treasurer, Mr Michael Egan, to stop the privatisation of FreightCorp.

**The Hon. Michael Egan:** When did they say that?

**Ms LEE RHIANNON:** It goes on to speak about the widespread opposition within the New South Wales Labor Party. I received a copy of this today, Treasurer. It continued:

The Wallsend SEC has been a leading opponent of the privatisation since it was first announced last September. The privatisation is in direct opposition to New South Wales policy—

I am sure it means Labor policy—

and the manner in which it is proceeding is in open conflict with the rules of New South Wales ALP.

Party policy clearly prescribed that FreightCorp is to be retained in public ownership and party rules provide that any privatisation must be examined and endorsed by the Annual Conference of the New South Wales Labor Party. At its Friday night meeting Wallsend SEC unanimously resolved to express both publicly and privately that it remains resolutely opposed to the privatisation.

The council went on to explain why it opposed the privatisation so strongly. It stated:

The FreightCorp privatisation will result in job losses. It will deliver the most profitable section of the New South Wales railways into foreign hands. It threatens the rails share of Hunter Coal Transport in the Port of Newcastle and the final result will be a road and rail transport oligopoly in Australia.

That sums up why so many Labor Party branches have passed motions and signed petitions opposing this issue. Many Labor members have contacted the Greens and said that this has been a hard week for them. Some people have said to us, "Well, it is pretty good for the Greens."

**The Hon. Michael Egan:** Do you think there's a chance they might join the Greens?

**Ms LEE RHIANNON:** Dare I say that you have read my mind, Treasurer. I was about to comment on that very fact.

**The Hon. Michael Egan:** Is there anything I can do to help?

**Ms LEE RHIANNON:** Obviously we welcome the boost in membership, but what is happening with Labor, with privatisation and with the gutting of workers compensation is not healthy for Australian society and for the people of New South Wales. So, no, I do not welcome what you are doing in any shape or form.

**The Hon. Michael Egan:** But is there a chance they'll join the Greens?

**Ms LEE RHIANNON:** You must have missed my point. I just said that we have had a boost in membership because of what has happened over the past week. When you do these sorts of things it helps us out, but it is not good for the people of Australia. This bill also exposes what a hypocritical disgrace Country Labor is. From day one it has been nothing more than a sham and cynical marketing exercise. If there was any point for rural and regional people to having Country Labor, surely it would be that it would stand up for their interests when the crunch came. Well, now we are certainly seeing the crunch. Will Country Labor protect the interests of country people when it is threatened by the interests of the big banks and multinationals based in Sydney? Let us remember that they are the winners from this privatisation.

Today Country Labor members are not even present while this most important issue is being discussed. Country Labor is just another facet of this arrogant, right-wing Government; it is just a convenient faction to bring out at the right time, to have the web site and media releases and to pop up at events in rural and regional areas. But the con is getting out. This Government is obsessed with PR, marketing and spin. Country Labor is a pathetic marketing exercise with no substance whatsoever. At the Country Labor conference held on 11 and 12 November last year in Coffs Harbour the Newcastle and northern branch of the AMIEU moved as follows:

This Conference calls upon the State Government to halt moves to sell-off FreightCorp and enter into discussions with unions and country communities on developing a freight policy for NSW that maintains and strengthens FreightCorp's role.

The motion passed by the conference stated:

Conference expresses concern about the sale of FreightCorp and calls on the State Government to support the RBTU and the ASU and the Country Labor parliamentary team efforts to gain guarantees on rail jobs in country NSW, keeping country rail lines open, retaining subsidies on rail freight and guaranteed public ownership of all rail passengers and rail lines.

Although that motion was passed by the conference, again one gets the feeling that it is a genuflecting exercise. The words are there but the members of the conference are hoping they will be able to modify some of the anger in the branches—anger that is not conveyed in this place and is not evident in the Government's legislation. I have mentioned the Wallsend State Electorate Council and the work some of the unions did at that conference. I understand also that the Australian Manufacturing Workers Union has worked extensively to try to ensure that this privatisation does not go ahead. A central plank to the success of the Treasurer winning support on this bill has been the guarantee that jobs will be kept.

But it is only for three years, when we have had 150 years of publicly owned rail freight operations. In the scheme of things, three years is very little. Most of us in this place know that time flashes by quickly. For those workers three years will go by very quickly. If FreightCorp were to remain public, jobs would be maintained indefinitely, and that is the bottom line. Privatisation will definitely lead, in due course, to the downgrading or closure of some country rail services and the lines on which they run. Some existing services operate via cross subsidies only; commercial operators are likely to abolish them. If there is no money in them, they will go. The bill is interesting because it reveals, to some extent, debates that have been going on for some time in the Australian Labor Party and the labour movement generally. Clearly the position of the Greens on this issue is shared by most people.

I acknowledge the work of several organisations and individuals who have put a great effort into fighting to maintain rail services in regional and rural New South Wales in general and, in particular, opposing the privatisation of FreightCorp. The work of the Lachlan Regional Transport Committee has been consistent over the years, working to promote rail transport, both passenger and freight, and the interests of the communities of the Lachlan region for whom rail services are so important. I also acknowledge that many individuals in the union movement have approached the Greens to offer their support for our position against the privatisation of FreightCorp and to offer their assistance in whatever way possible.

Privatisation of FreightCorp and workers compensation reforms have highlighted the deep disaffection with the Labor Party felt by so many in the union movement. The Greens are steadily gaining support in many circles, particularly much of the labour movement, because of events about which I have spoken. Such support is based on our consistent and principled position on industrial relations and privatisation of public services. We are pleased to win that support, but we acknowledge that it is not healthy for Australian society and, in this case, the people of New South Wales when there is such convergence between the major parties. The Greens will oppose the legislation and will continue to work for a publicly owned rail system for New South Wales.

**Reverend the Hon. FRED NILE** [3.52 p.m.]: The Christian Democratic Party supports the Freight Rail Corporation (Sale) Bill. When the Federal Government announced that it would sell the National Rail Corporation it was inevitable that the State Government would have to consider the sale of Freight Rail. We have always supported the combined joint sale of both organisations. We knew that if there were no sale, FreightCorp would collapse, there would be no rail and there would be no jobs. There was no option but to introduce the current bill. We strongly support decentralisation and encourage the Government to continue to do everything it can to support Freight Rail and rail operations in New South Wales.

Other speakers have referred to road freight, but it is obvious that rail freight is far better than road freight because of the damage to our highways and pollution caused by semitrailers and heavy road transport. Recently, three semitrailers collided, which only adds to the high accident rate in our State. FreightCorp will be sold by one of the following methods: direct sale of the business undertaking of FreightCorp to a purchaser; conversion of FreightCorp to a company and sale of the company to a purchaser; or transfer of the business undertaking of FreightCorp to a company incorporated on behalf of the State and sale of that company to a purchaser. Comment has been made that the bill will work against the interests of the country.

It is interesting to note that the New South Wales Farmers Association is prepared to support the privatisation of FreightCorp, provided that the State Government guarantees to maintain budget outlays in the form of committee service obligations to support rail transport; guarantees to maintain community services

payments for the transport of grains, sugar and other produce in a way that provides flexibility and does not prevent another provider from entering the market; and guarantees increased real public investment in freight rail infrastructure over the next five years, with the aim of achieving an Australian best-practice benchmark standard for all New South Wales rail freight lines within that period.

The General Council of the New South Wales Farmers Association passed a motion that in the sale of FreightCorp the State Government not insist on selling FreightCorp as a single business; the State Government ensure that any rail community service obligation be maintained and be based on line activity, not ownership; and the successful purchaser of FreightCorp not have exclusivity of access to rail lines. The association also requested that the privatisation of FreightCorp be the subject of an independent rural and regional impact study before final decisions are contemplated, including consultations with community members. We have been supplied with a copy of the independent impact statement based on the recommendation of the Legislative Council General Purpose Standing Committee No 4, which in November 2000 conducted an inquiry into the privatisation of FreightCorp. The committee recommended:

That the New South Wales Government commission an independent rural and regional impact statement before any final decision is made on the privatisation of FreightCorp. The impact should be tabled in Parliament and be made public.

The recommendation has been adopted by the introduction of the legislation. I will not read large extracts from the independent "Freight Rail Corporation (Sale) Bill 2001 Rural and Regional Impact Statement 21 June 2001" report, except to refer to its conclusions, which state:

The sale of FreightCorp is expected to have a number of benefits for NSW, particularly in rural and regional communities where rail freight operations are an important part of the economic infrastructure:

- The long-term competitive viability of rail freight in the national land freight market is expected to be strengthened, as a potential merger of FreightCorp and the National Rail Corporation will establish an organisation more fully able to exploit rail freight's natural competitive advantages. A merger could not be achieved without sale of FreightCorp, due to the Commonwealth Government's restriction on Government-owned entities bidding for the NRC.
- Long-term employment prospects in the rail freight sector in NSW will be enhanced by a more viable competitive position. In contrast, the security of long-term employment opportunities in the industry would be reduced if a merger of FreightCorp and the NRC did not occur. An employee transfer package will ensure a fair transition for current FreightCorp employees.
- The Government's commitment to support rail freight operations in rural and regional NSW, through a combination of product and line subsidies, will ensure that otherwise non-commercial rail freight services in rural and regional NSW will continue.
- Recent Government initiatives to enhance rural line maintenance funding will further support rail sector employment in rural and regional NSW.
- An enhanced competitive position of rail will contribute to greater environmental and safety outcomes, compared to a scenario in which road transport's share of the national land freight market remains at, or goes from, current high levels.

The detail provided in the independent rural and regional impact statement support those conclusions. The impact statement should remove some concerns that honourable members have expressed in this debate. We support the bill.

I note that there was reference to what happened in Victoria. The only way to create a strong New South Wales-based rail freight operator is to sell FreightCorp and National Rail together to the same bidder. That will avoid job losses from rail-on-rail competition and the best position is for rail to compete with road freight. Honourable members should remember that FreightCorp now employs 2,200 people throughout New South Wales. There has been a 45 per cent reduction in staff numbers since July 1996 because rail has had problems competing. However, when one compares New South Wales with, for example, Victoria—where a number of government-owned rail freight operators have been sold in recent years—in each case staff numbers increased following privatisation. They did not decrease, as some honourable members have suggested in this debate.

An example of that was the sale of the Victorian Government's V/Line in mid-1999. The business has taken on 100 additional staff. After the Commonwealth sale of TasRail in 1997, the new operator has taken on about 30 extra staff. Since the sale of Australian National Line South Australian arm in 1997, staff numbers have increased by 25 per cent. In the long term, this bill will save the jobs of those who are already employed and, bearing in mind other examples, hopefully will provide further opportunities for employment in that sector. The Christian Democratic Party supports the bill.

**The Hon. RICHARD JONES** [4.01 p.m.]: This legislation would not have been necessary if it were not for the intransigence of the Prime Minister, John Howard. His refusal to allow government-owned entities to



bid for the National Rail Corporation [NRC] forced the sale of FreightCorp. If FreightCorp had been able to bid for the NRC, we would be witnessing a different situation today. I do not see particular merit in whether something is publicly or privately owned. There are arguments on both sides. No doubt, in privately owned entities there tend to be more efficiencies because shareholders have to be taken into account. Publicly owned utilities have more liability for subsidies. There will be a gigantic subsidy indeed for FreightCorp and for rail users when this legislation is passed.

The sale of FreightCorp and the National Rail Corporation is a blow to the social, economic and environmental status of New South Wales. As the inquiry into the Glenbrook tragedy revealed, the New South Wales transport system is dangerously fragmented. Selling publicly owned railways can only increase that. The sale of FreightCorp and the NRC will almost inevitably lead to reduced investment in rail, due to the inability of rail to offer a rate of return attractive enough to the private sector.

The lack of a high commercial return does not reduce the importance of investing in this nationally important infrastructure. The benefits of a productive rail service are not confined to those whose freight is carried on the roads. There are benefits to other road users who do not have to share the road with overly large trucks racing to meet their next deadline. There are benefits to rural towns, whose roads will be spared the thunder of those trucks through their main streets—as residents of the town of Bangalow would be aware. Recently a bypass was constructed in Bangalow at enormous cost to taxpayers. Now they are spared those trucks and they are grateful for that. There is something of a boom now in Bangalow.

There would be benefit to local councils and taxpayers in not having to pay for the continued upkeep of local roads and bridges. Those costs are not fully paid by those trucks. There would be benefit in reducing the amount of greenhouse gas emissions, because trucks use three times as much fuel as trains, with corresponding greenhouse gas emissions. Because of the failure of the New South Wales Government to recognise those benefits, the community is condemned to a contraction of Australia's rail systems, continued growth of road-based transport, job losses, and a reduction in wages and conditions. The privatisation of Australian National Rail showed that a loss of 50 per cent of rail jobs, pressure on wages and conditions, and collective bargaining are likely outcomes.

The decline in rural Australia, due to loss of rail jobs and associated services, and increased greenhouse gases, again slowed down Australia's ability to meet its commitment to the Kyoto Protocol. New South Wales is condemned to increased congestion in open areas and an increase in traffic accidents and costs, and associated trauma. The House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform "Tracking Australia" report of August 1998 states that the major issue facing the rail industry is not public ownership but lack of investment and lack of strategy. It argues that a staged investment by the Commonwealth Government of \$2.75 billion over 10 years is justified economically, alongside the development of a national transport strategy. It pointed to the gross imbalance of Federal transport expenditure on roads, on which \$42 billion has been spent in the last two decades compared with only \$5 billion on rail. Professor Laird of Wollongong University stated that this gives the road freight industry an unfair advantage over rail. A similar imbalance exists at the State level. The Federal committee's "Tracking Australia" report states:

without urgent and sufficient investment from the Commonwealth, rail infrastructure could become irretrievable

and the report states:

Many rail tracks still follow nineteenth century alignments, with twists and curves, tunnels which are not sufficiently wide or high, and bridges that are not able to take today's heavy loads.

"Revitalising Rail—The Private Sector Solution" is a report prepared by a private sector task force, which the Prime Minister set up, headed by businessman Jack Smorgon. The report recognises the need for national leadership in rail. It recommends the development of a national transport strategy to redress the imbalance of investment between road and rail, and to ensure that full external costs of transport, pollution, accidents and so on are properly considered in investment decisions.

While offering many practical solutions that can be supported, the Smorgon report is marred by its misguided support for the full privatisation of all public sector rail operations. The evidence offered by the failure of rail privatisation in Britain and World Bank reports have been ignored. These show that privatisation is not the panacea it claims to be. In that respect, the Smorgon report can safely be ignored, too. The New South Wales Government, through the Australian Transport Council, must instead call on the Commonwealth Government to declare and invest in a national rail highway and sustainable urban transport. "Tracking

Australia" recommends that the Commonwealth Government invest \$2.75 billion in the interstate mainland system in the next 12 years. It recommends that an integrated national transport commission be established initially to oversee the investment of \$2.75 billion, and later to form part of a National Land Transport Commission.

The National Land Transport Commission should develop a national transport strategy that applies common criteria to all road and rail investments, and properly consider their external costs and benefits. The competition principles agreement requires governments to take account of employment, investment, and consumer and environmental sustainability when considering the introduction of competition to the public sector. It is clear that the New South Wales Government has failed to heed the strong community concerns raised in the parliamentary inquiry into the sale of FreightCorp. Instead of selling off the family silver, the Carr Government should be working to develop an integrated transport plan for New South Wales. The Hon. John Jobling expressed surprise earlier that the Labor Government would be considering privatisation. What he failed to say, although I am sure he realised it, was that when a new Government comes to office, Cabinet and Treasury are still there.

**The Hon. John Jobling:** What I said was that during the 1999 election campaign Labor denied it was considering privatisation, and I accused the Government of being gung ho. Surprise! Surprise! Look what it did.

**The Hon. RICHARD JONES:** The Hon. John Jobling well knows that when a new Government comes to office all those promises fall away. Because they have to deal with the Cabinet Office and with Treasury, and they are the same people in the Cabinet Office and in Treasury year in and year out. No matter what a government's promises and aspirations are before election to office, immediately it gets into office it is collared by Treasury and the Cabinet Office.

**The Hon. John Jobling:** A strong Minister can fix that up.

**The Hon. RICHARD JONES:** Sometimes, sometimes. I once asked a member of the Cabinet Office, "If the Premier wants something, does he get it?" The officer responded, "He does have some influence." That is typical of government, not only in this state but federally as well.

I believe there should be transparency on community service obligations [CSOs]. The community has an absolute right to know where its dollars are spent. The public should know that these dollars will subsidise the right people and will be used for the right purposes. Now when a person takes a rail trip in New South Wales, especially a rural rail trip, the person pays only 20 per cent of the actual cost; 80 per cent of the cost is subsidised from the public purse. We have to be very much aware of that.

There should be some kind of investigation into transport generally to determine whether we are putting our dollars in the right direction. In the estimates committee hearings the Hon. Ian Cohen mentioned biodiesel. He said that we should be putting more subsidies, more public money, into alternative fuels so that people can use private transport without damaging the environment. Fossil fuels will not be readily available in 20 years time, so we need to investigate alternative fuels. Rather than spending \$1.4 billion of public subsidy, and probably wasting some of it, we should consider spending a portion of that to ensure that in the future we will have fuels that will not be as damaging to the environment as our current fuels.

The Department of Health advises that in Sydney approximately 400 people die every year from the effects of vehicle pollution—that cost has to be borne by the public. We need to consider whether it is worth subsidising rail traffic, particularly in the city, to reduce that loss. European countries are constructing light and heavy rail systems because of the cost to life and community amenity from pollution. Air pollution is the number one concern for environmentalists, above concerns about forests and water pollution. Subsidies should be used to investigate the reduction of costs to public health in Sydney and to ensure that people are able to use rail transport. The use of country rail should be examined to determine whether money is going in the right direction. Perhaps we should subsidise air travel, rather than subsidise the enormously expensive rail trips.

**The Hon. Dr PETER WONG** [4.11 p.m.]: The Unity Party will not be opposing the sale of FreightCorp, although I am very concerned about the sale of an important public asset under the circumstances of the sale of FreightCorp. It is essential that the community service obligation [CSO] provisions be as stringent as possible. I am aware that the Government and the Opposition will support the legislation. It is most unfortunate that this decision has been brought about by privatisation of rail freight services at a national level. If this had not occurred, there would not have been the impetus for sale of FreightCorp. Clearly the fear is that less community-minded and deunionised, aggressive competition will take away the business of FreightCorp in a competitive and mainly privatised market.

I believe that FreightCorp could continue to operate profitably as a public entity. It is providing a valuable service and facility for communities and industries in this State. It is providing important employment in many regions. If it stayed in public ownership it would not be as vital to include strict CSOs. I hope that in the future those CSOs will be enforced should the new owner find them a threat to their bottom line. Certainly I hope that the rural communities of New South Wales do not one day regret the action taken by the National Party and its Coalition partner at the national level, and through its support for this sale at the State level.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [4.15 p.m.]: Basically the Australian Democrats do not support the privatisation of public assets. We support the retention of public transport in public hands. I acknowledge the points raised by the Hon. Charlie Lynn that the Carr Government is dominated by the Right and has the same politics as the Coalition when it comes to the role of government in the economy. The Liberals say that they are pro-privatisation. Before the last election they said that everything was going to be privatised, including electricity, and that they would play Santa Claus. That was the Liberals chief policy. Labor did not say that.

I have attended a number of seminars about the privatisation of electricity. It is difficult, and we concede it is difficult, if utilities are partially privatised. Effectively, the public sector would have to compete with the private sector. With the historic role of government that would be difficult, particularly if the private sector is able to pick and chose. Let us make no mistake about this; it is not entirely a simple, ideological issue. The practicalities must be addressed. In the electricity industry there were black-outs in California and supply difficulties in New Zealand. As the interests of the generators and the interests of the consumers diverge there are difficulties with a privatised system. The market theory, as expounded by the economists, is put to the test, and the lights go out!

Chapter one of the economics books state that a competition model is always the best. It has been put to me that that model is based on a little village in Europe in the nineteenth century when produce was brought to market by a number of farmers. People did not have refrigerators but went to the market with an amount of money to buy their food for the week. At the end of the day, nearly all the food was sold, all the money was spent, and everything balanced perfectly. The consumers had made rational decisions from a choice of producers, and things worked very well.

Today with refrigeration, goods do not have to be sold on the day. With credit, people can buy more goods than they need for the day. All the other chapters of the economics books refer to the monopolistic position, the oligopolistic position, power in the market and so on, that make the perfect market theory, just like something out of fairyland. With global corporations, power is not feted by government in the interests of the owners who may be literally half a world away from the interests of the consumers.

In Australia, as in much of the world, historically roads have been built largely because of political pressures. On SBS television some time ago there was an interesting program, which showed that the perfectly good working public transport in America had been deliberately undermined by the motor vehicle manufacturers in order to increase their profits. Certainly in Australia roads have gone ahead at the expense of rail, and rail is criticised as being inefficient. In reality, as the Hon. Ian Cohen pointed out, the fuel cost of moving freight on rail is about one-third that of moving freight on road. The cost of providing rail tracks is far cheaper than the cost of providing roads when considering the amount of tonnage that can be delivered for maintenance, once the easement exists.

The essence of the problem with the development of rail has been that of little investment. Development particularly relies on the transfer stations, if you like, where goods are loaded and unloaded. The government monopoly has not been managed efficiently and has not been encouraged to compete with roads. The growth of cities has not followed the railways, it has followed the roads. Therefore a large number of journeys cannot now be made by rail because there is no railhead close to the destinations.

Again, that is partly because we followed some sort of Los Angeles car-dependent policy, which in the long-term would be very dangerous for this country as we, and the world, run out of oil. We do not have the money to buy sufficient oil to run this road-dependent country. We have to start forward thinking. If the rail infrastructure is greatly influenced by considerations of private profits, naturally it is important that the rail industry genuinely competes with the road industry.

Of course, if the roads were owned by the same person or group one or other could suffer in order to maximise the corporate profit, and that is clearly a concern. Public interest must be represented. For example,

with the sale of a Commonwealth bank and what might be considered supernormal profits in the banking industry, the bank need only outline its cost structure and the percentage return, and it would therefore be able to state its price structure. In other words, price is related not to what the market would bear but the cost of production. Effectively, that could drag the price down considerably.

It may well be that having a public entity in the market will allow some degree of price control in the rail system, with the result that rail will not be an expensive profit-maximising structure but a social instrument to perhaps lessen Australia's dependence on oil, provide transport and reduce road costs by removing the load on some roads. It is all very well to suggest that as we own the track, therefore we do not need to own the rolling stock. That may be okay in the short term but perhaps not in the long term.

This bill has not taken into consideration the longer-term effects, or losing control of a major mode of transport in a time of rising oil prices. The Hon. Charlie Lynn said that the world is privatising and that we are a world leader. I could not help reflect on the fact that Maggie Thatcher achieved extraordinary things in Britain and how the gap between the rich and poor there is significant. Honourable members will have read about riots in Britain a few weeks ago and wondered whether they were related to privatisation. South America has undertaken significant privatisation and has what are called debt for equity schemes. Countries that do not pay their way flog off their assets to foreign corporations. This is detrimental to the country's long-term future. Indeed, riots are occurring in Papua New Guinea on this issue today.

Privatisation in which there are private monopolies can have a significant impact on a country's future and its cost structure. Indeed, the people involved may be unable to have any influence, and that is a frightening scenario. Australia was not developed, as the United States of America was, by large corporations developing infrastructure in order to open markets and access natural resources. It might be noted that the rail developers in the United States were referred to as robber barons because they told town councils that if they did not pay a certain sum of money the town would be bypassed and would therefore become a ghost town, leaving other towns to be developed. Such was the power of rail.

That is an analogy for market power when a major transport mode is lost to the citizens, and that should be considered. I am concerned that the Labor Government is privatising in a manner similar to that followed by the Liberal Party. Admittedly, this may be partly or perhaps entirely because the Federal Liberal Government is calling the shots by suggesting it will introduce a large private operator to cherry pick the best contracts, leaving States with all the social obligations. This is extremely costly and cannot be cross-subsidised because all the lucrative routes have been taken.

I am concerned that a deal has been done with the workers in the most affected areas. Although I am not suggesting that workers should be left on the shelf, they should not be the major consideration in the transport plan of the second major overland mode of transport for the foreseeable future, that is, rail as opposed to road.

In Australia the public sector, not the private sector, invested in the development of our State. People such as Nugget Coombs were very conscious of the necessity for the State to be looked after for the public good. Construction was achieved through selling bonds. From a balance sheet point of view, if one has the asset, having debt does not matter. There is an obsession with public debt, and indeed the Treasurer mentioned by way of interjection that he considered it is good to pay off public debt. These moral judgments are bad if no thought is given to the assets that are needed and whether it is reasonable, as I believe it is, to have debt provided there is equity to match the debt.

**The Hon. Malcolm Jones:** What about servicing the debt?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Of course servicing debt is important. I am not suggesting that one would buy uneconomic goods, say a train line, unless it covers the cost of the bonds. It is preferable to have a train line as opposed to having no train line and no bonds. The fact that money has not been spent wisely in building rail lines to areas that were not economic in the past does not mean that has to be the practice in the future. The nakedness of this Government was shown last week when the Minister for Health responded to a question about the sale of the Callan Park hospital site at Rozelle. He basically said that it is quite normal to sell land in order to buy buildings—in other words, to sell assets in order to turn them into assets. The problem is that buildings last 30 years but land lasts forever.

The ALP has decided to privatise and has admitted that the reasoning behind the decision is that because the entity is partly privatised, it is assumed that FreightCorp could never possibly compete, and

therefore one must maximise the sale price rather than sell it to someone else. As happened with the sale of the electricity utilities in South Australia, the sale price can be maximised if a private monopoly is created, but that does not necessarily maximise the service. As the lights go out and prices go through the roof in South Australia, people have become aware of the pitfalls of private monopoly. In an article in the *Sydney Morning Herald* of 13 November 2000 entitled "The FreightCorp sell-off wins crucial Labor support", Damien Murphy stated:

3 years after the Labor rank and file rejected government plans to privatise the power industry, many ALP members have been infuriated by the parliamentary caucus's decision in September to endorse plans by the Treasurer, Mr Egan, to sell FreightCorp.

Labor's right-wing headed off a revolt at the Country Labor conference at Coffs Harbour this weekend.

They looked after union members, which is fair enough in one way, but it should not be the determining factor in managing the economy of a transport plan for New South Wales in the medium term to long term, which is of course what happens. I am concerned that no consideration has been given to the essence of control or having a significant player involved in the rail sector as well as owning the rail entity. Indeed, if FreightCorp is sold for a large amount on the promise that the money will be put into infrastructure, the result will be the same as with the buses, where the public sector subsidises the profit of the private sector. Surely that is not in the public interest.

If subsidy arrangements were in place, one would have to accept that FreightCorp would lose money in some areas, such as guaranteeing certain staffing levels in the medium term. That would be managed in order to be competitive and the employees would be retained. The money would remain in a fund for some time and certain objectives would be undertaken that were not entirely in the interests of proper maximisation but had other benefits, such as relieving the pressure on roads in certain areas. In those cases the Government may elect to forgo profit in order to achieve some other social objective. If no company is able to do that, subsidies must be offered. The line between justifiable payments for a service and a well-intentioned government pouring money into private sector coffers can become blurred, particularly if people working in the field cannot keep a cool head and monitor the situation.

This bill facilitates the sale of FreightCorp and outlines three methods of sale that are available to the Treasurer. The object of the bill is to provide for the sale of the Freight Rail Corporation jointly with the sale of National Rail Corporation Ltd. The sale is to follow one of the three methods: first, the direct sale of the FreightCorp business undertaking to a purchaser; second, the conversion of FreightCorp to a company and the sale of that company to a purchaser; and, third, the transfer of the business undertaking of FreightCorp to a company incorporated on behalf of the State and the sale of that company to a purchaser. FreightCorp is currently a statutory State-owned corporation under the State Owned Corporations Act 1989. The bill will also continue community service obligations payments to private operators, which effectively are subsidies for the private sector. Given the history of what has happened with the buses, I confess that that concerns me. Clause 10 of the bill empowers:

... the Auditor-General, with the approval of the Treasurer, to communicate any matter or thing that has come to the knowledge of the Auditor-General in respect of FreightCorp. Such communications may be only made to specified persons, including potential purchasers. There are restrictions on recording or divulging information acquired under this provision.

Parliamentary oversight is excluded. The people of New South Wales will once again be excluded from knowing whether we have secured a good deal from the sale of this strategic asset. It seems that the Government has learned nothing from the Auditor-General's comment about Port Macquarie hospital, which he said had been paid for twice and given away once.

**The Hon. Michael Egan:** We're not paying for anything; we're selling something.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** In terms of securing a good deal that is open to public scrutiny, the Treasurer knows perfectly well that the transparency issue is the same. This will happen despite recommendation No. 8 of General Purpose Standing Committee No. 4, which emphasised the importance of transparency.

Clause 6 of the bill refers to the results of the sale. It deals with the employment of employees of FreightCorp after its sale and the disposal of proceeds of the sale. As 67 per cent of FreightCorp's 2,265 employees are mainly in rural and regional New South Wales and South Australia, the committee recognised that any reduction in the FreightCorp work force might have a disproportionate effect on rural and regional New South Wales. A report was produced about that effect.

Clause 42 provides that if FreightCorp is sold using method one—direct transfer of the undertaking to a purchaser—the employees of FreightCorp will be transferred to the employment of the purchaser. If the sale of FreightCorp proceeds according to method three—transfer of the undertaking to a company and the sale of that company to the purchaser—the employees will be transferred to the employment of the sale company. Transferred employees will retain any rights to sick leave, annual leave or long service accrued before the transfer, unless the employee has been paid the money value of the accrued leave. No provision is made for the case where the sale occurs according to method two—conversion to a company and sale of that company to a purchaser—because the sale company to which FreightCorp will be converted is the same legal entity as FreightCorp, so its staff will continue as staff of the same entity.

Clause 43 provides that, upon the sale of the company according to sale methods two or three, each member of staff of the sale company will continue to be a staff member of the company—despite the change in ownership—on the same terms and conditions of employment as applied to that staff member immediately before the sale. Clause 44 gives effect to schedule 2, which provides for the transfer of FreightCorp employees from public sector superannuation schemes to the Local Government Superannuation Scheme or to another superannuation scheme approved by the Treasurer. The Treasurer may also approve of transferred employees remaining with the current superannuation schemes.

Employees will be looked after quite well by this legislation, and that will probably affect the sale price. The question is whether this is the best arrangement or whether it would have been better to have a competitive entity and to have regard to workers' needs, the effect of the sale on regional Australia and the differences between private and public sector awards in some other manner. Clause 45 provides that proceeds of the sale of FreightCorp are to be paid into the Consolidated Fund, less any amount approved by the Treasurer to meet expenses reasonably incurred in connection with the operation of the proposed Act.

The Australian Democrats question the application of national competition policy and have called for a review and reassessment of its effect on the greater community. FreightCorp is a State-owned corporation that was established in July 1996. Its main activities include the bulk haulage of coal, grain and other materials, such as non-metallic minerals, in New South Wales to domestic processors and to sea ports for export. Logistic and transport services are also provided for bulk liquids, such as wine, milk and industrial tars.

According to FreightCorp's annual report, the corporation owns rolling stock comprising 292 locomotives and 5,614 wagons. It is a profitable organisation, and has made substantial productivity gains since its inception in 1996. Indeed, I was FreightCorp's occupational health physician for some time, so I played a part in those improvements. Employee productivity has risen by 128 per cent, locomotion by 52 per cent and wagons by 26 per cent in 2000. It is a profitable entity that responds to customer needs, and is gradually developing strategies in response to changing technological developments in logistics.

The Treasurer announced his intention to sell FreightCorp in September 2000 together with the National Rail Corporation [NRC], of which the New South Wales State Government is a minority shareholder. It was hypocritical of the Commonwealth finance Minister, Mr Fahey, to exclude FreightCorp and other State-owned rail entities from bidding for the NRC. It goes against the spirit of the national competition policy to prevent some groups from making bids. The proviso is that they would have to bid on a reasonable return basis and not simply use the bottomless pockets of the taxpayers to make unrealistic bids. Nevertheless, bids should have been allowed within the framework.

The bill will facilitate the sale of rolling stock and other assets of FreightCorp. The State-owned Rail Infrastructure Corporation will continue to own the track and other rail facilities. I congratulate the Treasurer on that decision, as it is critical to retaining control of our rail services and offers the possibility of re-entering the market later and re-establishing a publicly owned entity if super normal profits are taken by private sector operators. That may seem a remote prospect now, but it is always a possibility if the market fails.

The bill implements several recommendations made in the report of General Purpose Standing Committee No. 4 on the privatisation of FreightCorp. I congratulate the Hon. Ian Cohen and the Hon. David Oldfield on taking the initiative and referring the matter to that committee. The committee heard evidence from 27 witnesses and received 40 submissions from a wide variety of groups. Evidence of experiences in other States where freight services have been privatised elicited a mixed response. Page 28 of the report states that there is no evidence to show any safety improvements after privatisation. I am concerned that the track and the rolling stock will have different owners.

One of the best *Yes Minister* scenes I have ever witnessed occurred five or six months before the Olympics when Minister Scully gathered the heads of the different rail corporations in room 1146 to explain

why there should be no inquiry into the fact that trains were coming off the rails. He said, "Ask any questions you want; I've got all the managers here." However, when we asked a question, the managers were not sure to whom to refer it. There is a clear problem with lack of co-ordination between the different arms of the rail system.

Although the managers provided answers—with varying degrees of success; I do not think their responses were satisfactory—and the Minister achieved his objective in avoiding an inquiry, when troubles persisted with the rail system Ron Christie was recalled to co-ordinate operations through one authority. When I heard about the horrendous accident involving a privatised train and a British Rail train in England, I must confess that I wondered about the co-ordination of the rail network in this country and how smoothly it operates. It is one thing to talk about financial models; it is quite another to talk about the management of different entities on tracks where bad accidents may happen. Certainly the safety aspects frighten me. I have grave misgivings about this bill and I will not support it.

**The Hon. MALCOLM JONES** [4.40 p.m.]: I did not intend to speak on this bill, but having listened to the outpourings of left-wing philosophy from my colleagues on the crossbench, if they can be called colleagues, I wish to place on record that I congratulate the State and Federal governments on moving toward privatisation. My personal philosophy is that government should not compete with business; government should encourage and regulate business, not compete with it. Private and public sectors have a different work ethos and philosophy, and they have different motivators. It is not a question of who works the hardest. The private sector always has a profit/risk motive and risks are necessary at times. That is not the case in the public service: it has a different set of masters with a different set of objectives.

The public sector participating in business will at best be a short-term profitable experience. It is better off in the long term to sell off appropriate businesses to people motivated by profit. That may not be the philosophy of many members in this place, but it is certainly mine. Government should be restricted to a series of necessary tasks such as running the police force, courts, and prisons; acting as a business regulator; collecting taxes; providing safety nets for welfare, health and education; and, most essentially, providing for the defence of the nation. The Government should not involve itself in business; that should be left to others. I reiterate that government should not own businesses that compete with private citizens. Government certainly has a regulatory role to make sure things run smoothly, that all members of the public have equal opportunity and are treated fairly, and that people are not allowed to enter into work practices that would harm others.

I am pleased to see the Government move away from the banking and transportation industries. I would like to see it move out of the power industry. Telstra was privatised and now it is having problems that have been put down to work practices that it cannot rid itself of, from the days when it was publicly owned. The best example I can provide of this, on a much larger scale, is the problems West Germany suffered in absorbing the problems and work practices of East Germany. Probably the most efficient industrial society on the planet was turned into an ordinary one. I sincerely hope it can recover from that. I congratulate the Government on this move and encourage it to pursue further privatisation to rid itself of business enterprise.

**The Hon. DOUG MOPPETT** [4.44 p.m.]: I am reminded of the reference by a former colleague, the Hon. Bryan Vaughan, to Disraeli, describing his opponent as reminiscent of a South American landscape: a row of extinct volcanoes occasionally emitting a puff of smoke as a reminder of earlier days of activity and furious energy. As we entered into this debate I thought it would not be long before we would shake off the shackles and restraints of the railway lines of New South Wales and, indeed, transcend the boundaries of this State. I thought that honourable members would invoke their political and economic theories circling the globe and eventually perhaps transcend into the universe in a story that was certainly a lot less intriguing than *Star Wars*.

In trying to rationalise this argument I suggest that whilst everybody in New South Wales has an interest in this outcome, for practical purposes we could say that there are A-class shareholders and B-class shareholders. I do not use the categories A and B in any differential way to assert any superiority of one over the other. However, the analogy is useful in that the A-class shareholders are those who at least have a potential to consign freight or who might receive freight from the operations of FreightCorp.

The B-class shareholders, no less worthy citizens in a democracy but nevertheless having a different interest, are those who refer to the public interest and perhaps have a legitimate interest in the ecological and relative resource usage. However, I would suggest that their most active interest should be in the potential liabilities that might stem from the mismanagement of FreightCorp or its inability to fit into the modern freight structure.

The Hon. John Johnson, in a former occupation in his long career, used to travel around the countryside visiting places like Coonamble, which is near where I live. He would attest that in those days the railway infrastructure in those towns was, from an architectural and economic point of view, the town centre. It was interesting that Ms Lee Rhiannon referred to the 1850s, when the railways were pioneered in New South Wales and began to spread with development. For a moment I thought she would lapse into talking about how we could rest secure in our beds with the State Railways taking the freight to the seaboard and the Royal Navy protecting the sea lanes. The sad part was that it was such sentimental sententious rubbish!

Most of those magnificent railway station edifices have now been converted to tourist or business centres. The business activity centre in a town might be the former railway station. Nevertheless, you could not help but be impressed by the dedication of people in those days and their faith in the unchanging future. Sadly, that faith in the unchanging future has not been fulfilled and changes have been enormous, particularly since the war.

In the period immediately after the war the pace of business related to the arrival of the goods train. Coonamble received two goods trains each week bringing a variety of freight. Of course, there were lines of K and S wagons waiting at Coonamble for the wool to be brought in, sitting idle week after week until the trainload was put together. It is sad to reflect that somehow technology could never keep up.

I was one of the last people in the Coonamble district to consign wool to the Yennora wool stores by rail. It simply was not economic. In the end State Rail offered me a truck from Nyngan to pick it up from our wool shed. It would be carted to Dubbo if there was an undue delay at Coonamble. Of course, State Rail had to offer a rate comparable with trucks, so it would probably charge me \$5 a bale and then lose a further \$5 a bale to cart it to Dubbo to arrive two weeks later than a truck, and I would possibly miss a sale or two. The costs were just intolerable.

We have seen enormous changes in the mode of transport, not the modality. Today FreightCorp is not the universal service that covers people throughout New South Wales, and caters for their demands and needs. It is a very highly specialised, narrow, commercial enterprise that carries, largely, bulk freight—such as wheat and other grains, coal and containerised freight—in a limited area that has the comparative advantage of point-to-point business. It is not able to compete in any other area. We should be thankful for what rail transport offered when rail was king. There is no doubt that rail transport made an enormous contribution to the quality of life in country New South Wales. In the old days, prior to rail transport, a country town would have been waiting on a wagon bogged to the axle trees out on the black soil plains, or some teamster camped on the river bank in the higher country where he was not necessarily bogged but could not get back into town.

Then came the railway with, within reason, a reliable schedule for the arrival of goods and passenger services on which people could reasonably rely to get through come rain, hail or shine. When I heard honourable members talking sentimentally about the good old days of rail, I could not help but think that none of them had ever consigned or received freight that had been carried on rail. There was that wonderful parcel service that was tacked on to rail trains. I am not casting aspersions on people, but the parcel service personnel were notorious for breakages and pilferages. Insurance claims were sending the Government broke. If one sent a case of wine by parcel service, somehow or another it fell on its side and the packing around it would break open. They were kind enough to clean up the residue and mess, and to deliver the case with eight or so bottles left in it with the excuse, "Sorry, the others broke." I think they broke after the cork had been removed and the contents emptied. That is an unsubstantiated allegation.

I recall also, when I attended a Country Liberal Party meeting in Darwin, the advice of an American railroad expert who came over to lend his weight to the proposal to run the railway from Adelaide up to Darwin. This fellow offered trite, but very accurate, advice. He said, "Listen, mate, the answer to railways is to steer clear of anything on legs: people, livestock or furniture. Don't have anything to do with them, or you will lose money." He was, of course, talking about the breakage rate and the inability to get livestock from the point of consignment to another point where they were to be sold or processed in a reasonable time frame. We do not want to go down that track. We are dealing with an entity that has a portfolio of business.

I refer not only to A-class shareholders but also to B-class shareholders. We are not really debating competition between road and rail; that is all over. We are down to a very narrow area of business successfully conducted by FreightCorp, and I hope that will continue. But it will continue in a more efficient way, and there may be some opportunity for expansion if we proceed with privatisation. The views I have expressed were backed up by Reverend the Hon. Fred Nile when he quoted the point of view of New South Wales farmers. If,



15 or 20 years ago, we had talked about selling FreightCorp or closing the freight yard at Coonamble or elsewhere, people would have protested in the streets, "You can't take this away from us. This is part of our capital infrastructure, our social capital in the area."

**The Hon. Dr Arthur Chesterfield-Evans:** Neither major party put sufficient investment into railway infrastructure.

**The Hon. DOUG MOPPETT:** The Hon. Dr Arthur Chesterfield-Evans is absolutely wrong. He may think that the lack of investment in railway infrastructure, particularly during the Depression and the war years—which really set it all in train because we were still dealing with old steam locomotives at the end of a period—came about because suddenly trucks came onto the scene and wiped out rail. That is not the reason; it is much deeper than that. The honourable member is quite wrong to attribute this change in demand patterns for freight usage in New South Wales and throughout the world to the neglect of investment. The change has been brought about by the change in technology and demand by consignors and those who want to receive freight efficiently. Change is inexorable.

New South Wales farmers have adopted a very prosaic and pragmatic point of view. They say they are not interested in the ideology or the argy-bargy about whether privatisation is good or bad for our souls. They are interested only in the cost of freight, efficiencies for farmers who want to send their produce to the markets, and efficiencies for consumers who want to get produce at a reasonable price and in good condition. Farmers want to be certain that, if it is going to continue—because they are separated—the permanent infrastructure will be maintained in a way that promotes real competition. Other than that they are not wedded to any particular transport mode. If a new one comes along, the nature of the beast is that people will use the most economical and convenient method to transport their goods as quickly as possible.

The sale of FreightCorp is inevitable. One could argue about whether it should have happened earlier. But there is no doubt that the changes to passenger and freight services were precipitated by the enormous losses incurred on both services. Some might argue that it is important to maintain a passenger link between Perth and Sydney, even if we have to subsidise it. But anyone who has travelled on the *Indian Pacific* would realise, as I did, that it is a very sad spectacle of people travelling in bus-type accommodation on a series of wagons, behind the couple of wagons that were set aside and adapted for sleepers and any tourist-type activity that may have justified some sort of subsidy. But freight was a black hole of money losses. Remarkably, the people who have taken over and who are experienced in operating rail services in other parts of the world have, to a large extent, turned around the losses.

Whatever the rights and wrongs of action at the Federal level, that having happened there is no alternative but for New South Wales to secure the best disposal of this business. We are not disposing of the assets. The rolling stock is a depreciable asset, and I am not too sure whether the buyers will get a bargain. That is a commercial judgment. The business is highly volatile and will be subject to competition. It is absolute madness for the Government to continue to expose itself and B-class shareholders to the risks entailed. This is not about political philosophy; it can no longer be a matter of wanting to save the railway system. That is all over and gone. It is a matter of how best to dispose of what should be, at the moment, a profit-oriented organisation within the Government structure. The question is whether it is better retained in that sort of structure or whether it should go into private enterprise, given the changing circumstances with National Rail, which operates such an important freight corridor through the middle of New South Wales. At the end of the day, whichever way we add it up, it is a positive decision.

The only qualification that needs to be made is that which was made by the general purpose standing committee to give a reasonable guarantee of employment, albeit short term, so that people can make adjustments if necessary. Everyone would love to think that the new organisation would take on new employees as it has more business. But if that is not to be the case then the Government has an obligation to its former employees to ensure that the terms of transfer include a proper consideration of their welfare and some consideration of their impact on rural towns. Make no mistake: We are not doing anything for the rural towns by artificially holding up the cost of freight between the outlying hinterlands, business centres and the capital in Sydney. I did not announce the position I proposed to take in this debate, but I hope honourable members will have deduced by now that I support the passage of the bill.

**The Hon. MICHAEL EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [5.00 p.m.], in reply: I thank honourable members who have participated in the debate, particularly those wise members who have indicated that they will support the Government's legislation.

**The Hon. Patricia Forsythe:** So the Opposition is wise?

**The Hon. MICHAEL EGAN:** Sometimes members of the Opposition can be wise, and on the occasions when they are wise it is so pleasing and gratifying that one wishes it could be a permanent state.

**Question—That this bill be now read a second time—put.**

**The House divided.**

**Ayes, 24**

Mr Breen	Mr Johnson	Ms Saffin
Mr Colless	Mr M. I. Jones	Mr Tingle
Mr Della Bosca	Mr Kelly	Mr Tsang
Mr Dyer	Mr Lynn	Mr West
Mr Egan	Mr Moppett	
Ms Fazio	Mrs Nile	
Mrs Forsythe	Mr Pearce	<i>Tellers,</i>
Mr Gallacher	Dr Pezzutti	Mr Jobling
Mr Gay	Mr Ryan	Mr Primrose

**Noes, 4**

Dr Chesterfield-Evans  
Mr Oldfield  
*Tellers,*  
Mr Cohen  
Ms Rhiannon

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

**TABLING OF PAPERS**

**The Hon. Michael Egan** tabled the report of the Independent Pricing and Regulatory Tribunal entitled "CityRail and STA Buses and Ferries—Public Transport Fares from 1 July 2001: Determinations 1 and 2, 2001", dated 26 June 2001.

**Ordered to be printed.**

**APPROPRIATION BILL**

**APPROPRIATION (PARLIAMENT) BILL**

**APPROPRIATION (SPECIAL OFFICES) BILL**

**INSURANCE PROTECTION TAX BILL**

**STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL**

**Bills received and read a first time.**

**Motion by the Hon. John Della Bosca agreed to:**

That so much of the standing and sessional orders be suspended as would preclude the passing of the bills through all their remaining stages during the present or any one sitting of the House.

**WORKERS COMPENSATION LEGISLATION AMENDMENT BILL (No 2)****Second Reading****Debate resumed from 26 June.**

**The Hon. IAN COHEN** [5.10 p.m.]: Before the debate on this bill was adjourned I was quoting actuarial issues. Zaman predicts a steady decline in the deficit, without any legislative intervention. Actual claims are decreasing from a peak of 130,342 in 1996 to 124,879 in 2000. The summary continued:

If one compares the Zaman estimate of outstanding liabilities—\$5.86 billion—with the total assets of the WorkCover Statutory Fund, as reported in the WorkCover Annual Report of 30<sup>th</sup> June 2000—\$6.3 billion—there is no deficit, rather, the Scheme is in the black to the tune of \$460 million.

Even if one is not prepared to accept the Zaman estimates of outstanding liabilities, it should be noted that the WorkCover balance sheet lists total liabilities of almost \$8 billion, of which \$5.6 billion are non-current liabilities. This amount is made up mainly of the projected future costs of ongoing claims, much of which may never have to be paid because of the way in which commutations act to finalise potential long-term claims with greatly reduced payments.

In 1996 the Council on the Cost of Government found that WorkCover's accounting methods were unreliable. WorkCover has, at various times, changed its accounting methods. Recent changes to the WorkCover scheme have not had time to take effect and stabilise. Since being elected in 1995 the Carr Government has amended the WorkCover legislation in 1995, 1996, 1998, 1999 and 2000. The amendments to the legislation in the past couple of years should be allowed to stabilise and a proper analysis should be done before drastic legislation such as this is passed, once and for all, reducing workers' rights and benefits. The Labor Council handed out a document to the crossbenchers entitled "Current Financial Status of the Scheme".

The document questions the Government's assessment of the scheme. For instance, it specifies that in June 1998 the scheme predicted that anywhere between 3.4 per cent and 3.8 per cent of wages would be needed to cover the scheme. According to the latest scheme's evaluation that is reduced to 2.89 per cent of wages. The raw risk rate has actually dropped. The Advisory Council actuary indicated in his last evaluation of the scheme that it was 2.4 per cent. However, this may rise by 1 per cent because of the fall in interest rates and loss on returns in investments. The Labor Council pointed out that the Injury Management Act 1998 has not had time to work fully. The document specified:

This has only been partially implemented—not reached anywhere like its full potential. There are still enormous savings to be made.

The Australian Plaintiff Lawyers Association [APLA] placed an advertisement in the *Daily Telegraph* on 25 June. The advertisement stated the following: Last year WorkCover made a profit of \$365 million; the scheme's assets have risen from \$3.759 billion to \$6.8 billion since the Carr Government took power; WorkCover's actuary said that the fund will continue to grow; with a growing fund, where is the crisis; the fund does not owe any money and can meet its liabilities, it is only a paper deficit. On 30 May, APLA sent to the crossbenchers an analysis of the WorkCover fund. In that document APLA stated:

How can there be a crisis when the WorkCover Statutory Fund has grown in size by over \$3 billion by 30 June 2000. The income and expenditure statement for that year discloses a loss of \$2.7 million. An analysis of the figures shows that there was in fact an excess of income over expenditure of \$365 million. The loss had only been arrived at by including increases in unearned premiums provisions and outstanding claims provisions as expenditures. During the same twelve month period the total assets of the fund increased from \$5.9 billion to \$6.3 billion.

In addition, the WorkCover authority has reported an operating loss for every year since 1994 with the exception of 1999 when a profit of \$38 million was reported. During that time the fund has grown from \$3.74 billion to \$6.317 billion as at 30 June 2000.

The issue of premiums has dogged every government that has dealt with the WorkCover issue. In May 1990 the board of WorkCover revealed that the scheme had a surplus of \$1.1 million. Premiums were set at 2 per cent of wages. This was a huge reduction from 3.8 per cent of wages in the 1986-87 financial year. In those days the scheme was privately underwritten. In 1987 the Government of the day introduced legislative changes which ended private underwriting and moved to public underwriting. Premiums continued to drop over the next few years, dropping to 1.8 per cent in 1991-92. The 1.8 per cent premium rates were maintained for the next three years. This was the beginning of the alleged deficit. Grellman noted that at this time the true cost of claims was estimated to be higher but the difference was offset by investment income on the surface, which was \$1.1 billion in 1990-91. Roza Lozusic in her parliamentary briefing paper on WorkCover noted on page 14:

Underfunding seems to be a substantial contributing factor to the cyclical deficit problems faced by the WorkCover scheme. When the target premium rate was quite low it still do not reflect the true cost of the scheme and the shortfall was being met by the surplus.

In 1997 the then Attorney General, Mr Jeff Shaw, in response to a budget estimates question stated:

It was obvious many years ago that WorkCover was been underfunded and that the premium is simply too low to meet the expenditure.

The premium issue is a vexed one. On the one hand, there is not enough money going into the scheme to fund all the outstanding liabilities; on the other hand, raising the premiums would lead to reduced employment and further non-compliance in the industry. The best way to deal with any alleged deficit would be to ensure compliance across the industry with regard to the payment of premiums; improve the occupational health and safety condition of the workers; undertake injury management; let previous amendments to the Workers Compensation Scheme stabilise; and have an independent, transparent, and open public inquiry into the WorkCover Authority. In the past few years some of the reforms to the Workers Compensation Scheme have included: a 25 per cent reduction in benefits; stricter tests for workers to access benefits; stricter tests to access stress claims; cut-backs on rehabilitation benefits to workers from 12 months to six months; the abolition of indexation on lump sum payments; the abolition of interest to workers when insurers make a late payment; severe sanctions on workers who refuse a suitable job offer; immediate sanctions on workers who refuse suitable duties; common law election provisions tightened; and restriction of workers obtaining medical evidence to support their claims. These reforms have not been able to stabilise. There are other problems with the existing scheme other than the issue of non-compliance in the industry. Some of these are outlined by the Labor Council in a briefing note given to crossbenchers, as follows:

- Insurers have been identified as a major problem
- 25% per cent of unnecessary disputes are due to insurers
- Delays of insurers of payment to workers and service providers
- Medical over-servicing is a major problem:-
  - Rehabilitation has gone from \$10 million to \$50 million
  - Physiotherapy has increased by 9%
  - Chiropractor expenses have increased by 13%
  - Medical costs overall have increased by 15%
  - \$18 thousand for psychologists
- Employers not offering suitable employment, particularly small business
- The proposal contains no dispute resolution mechanism for return to work disputes
- Insurers are not utilising new medical dispute mechanism
- There is a delay in employers reporting injury and there are no penalties for breaching the Act in the proposal.

Other measures to improve the Workers Compensation Scheme have been proposed by the Australian Plaintiff Lawyers Association. A letter titled "Measures to Improve the Workers Compensation Scheme" stated:

The following proposals could contribute to making the New South Wales workers compensation scheme more efficient, less expensive and more accountable without disadvantaging those who have suffered a workplace accident.

1. Insurers could be made financially accountable to the Administrative Council of WorkCover for errors and inefficiencies they make in claims handling processes.
2. Insurers should be rewarded for efficient claims handling practices and early resolution of claims.
3. Insurers who fail to participate effectively in the conciliation process should be penalised. Suggestions include ...

Better screening and handling of applications to the Workers Compensation Resolution Service ...

Introducing an industry-based approach to rehabilitation and a process for assessment of outcomes

Incentives for employers to hire previously injured workers, such as no financial penalty if the worker is re-injured within a limited period after commencement (perhaps one year).

Restrictions and/or standardisation of medical and other treatment fees.

No alteration of the present system of medical panels and medical referees—the system in place already provides for effective and binding medical panels, if parties make proper use of it.

Better monitoring of employer compliance in premium payment.

Keep commutations of benefits, as a method of reducing long-term liabilities, but they must remain voluntary and court approved, rather than being made compulsory and calculated on any formula basis.

Development of a comprehensive and long-term strategic plan for workplace safety, supported by strengthened OH&S monitoring funded from consolidated revenue ...

The Greens have been lobbied extensively on this bill since we first got wind it was going to appear. I will read a few comments onto the record from unions, lawyers, community groups and individuals regarding the impact of the bill on injured workers. It indeed will be a sad day for injured workers in New South Wales when this bill passes the House. I quote from a letter from the Labor Council dated 26 June 2001:

In acknowledging the improvements to the Bill the Labor Council and affiliates are still opposed to the Bill and the impact of the legislation on injured workers. Labor Council will continue to press the Government and make submissions to the Common Law Inquiry to ensure that the Government adheres to its commitment that injured workers will not be disadvantaged.

The Bill currently before the Parliament is the first stage of the Government's ongoing reforms to the Workers Compensation system. The meeting vows to continue the campaign to ensure injured workers maintain their entitlement to fair and just compensation. As part of the campaign we will be calling on the Government to address the issues of employer non-compliance, occupational health & safety and injury management ...

Until all outstanding issues are adequately addressed the Labor Council is not prepared to support the Government's reform package.

The Law Society of New South Wales stated in a media release dated 21 June 2001:

"Injured workers stand to lose big, big money if this new system comes into effect. This is a major social issue which will have a devastating effect on society," Mr Meagher said ...

"Costs can be cut and time can be saved by simple measures such as arbitration. Nowhere in the current bill before Parliament is their mention of The Law Society's suggested reform model which aims to get claims disposed of outside the court system by way of arbitration. Arbitration is the way to save valuable dollars in the current system. The proposal will reduce the deficit.

"A system of arbitration would stop the majority of claims going to court and would penalise people who waste the courts' time.

There is a five step formula to a better workers compensation system which the Carr Government must consider if it truly wants a cheaper and expedited process.

1. Replace the current conciliation system with arbitration ...
2. Create a new position similar to Master/Registrar to oversee the arbitration process,
3. Set strict time limits for arbitration,
4. Aim for disposal of 90% of matters before the arbitration system,
5. If either party doesn't accept the arbitrator's ruling and wishes to appeal to the court, cost penalties apply if the result of the hearing departs significantly from the arbitrator's ruling.

I am sure members have received massive amounts of correspondence. I am only quoting highlights. Many different organisations and individuals have written. A specific area of concern is cited in a letter to me from Lyn Shumack, the chairperson of the Australian Psychological Society New South Wales State Executive. She wrote:

I am writing on behalf of the Australian Psychological Society Ltd ... to indicate our serious concerns regarding the Workers Compensation Legislation Amendment Bill 2001 ...

**The following matters relating to our profession, and contained within the Amendment Bill (No. 2) that was passed in the lower house late last week, require your urgent consideration:**

- 1) The Amendment Bill excludes the possibility of psychologists acting as "Medical Assessors" within the WorkCover system by limiting the makeup of the group of Assessors to medically qualified practitioners only.

Previous drafts of the Bill contained wording that could include psychologists. The Royal Australian & New Zealand College of Psychiatry ... and the NSW Labor Council have been working with the APS (in collaboration with the WorkCover Authority) to develop guidelines for psychological/psychiatric impairment and both of the former groups are fully supportive of our specific inclusion into the legislation in addition to 'Medical Assessors'. Many psychologists currently provide assessment reports for such impairment, and medical qualifications are not required for assessment of psychological disorders.

*Excluding assessment by psychologists from the legislation reinforces the outdated and unjust assumption that workers mental health is not of significance compared with their physical health, and that behavioural and emotional disorders can be discounted or stigmatised as pathology, even in our government's legislation.*

The exclusion of psychologists from the medical assessment provisions can only have detrimental effects for the public and the State in that proper assessment of the nature and scope for of psychological injuries, by professional psychologists, is crucial for their effective and efficient treatment. Psychologists use evidence based treatment and scientific method. Medical practitioners are not adequately trained to assess psychological trauma and psychiatrists are not behavioural scientists. Their assessment techniques and treatments are fundamentally based on medicine and biological disorders. Our respective professions have some overlap, but are complementary, and no one group has an exclusive capability for assessment and treatment.

...

*The passage of the above legislation through both Houses of Parliament will cause psychologists to be marginalised in the WorkCover Working Groups comprised of 'medical experts' on psychological and psychiatric impairment (that currently includes the APS representatives), and thereby entrench the guidelines favoured by unrepresentative commercial interests, eliminating assessment of emotional and behavioural disorders by specialists in psychology.*

...

The APS also has concerns about the proposed criteria for the implementation of impairment thresholds. Undoubtedly, thresholds of 10% for permanent psychological impairment raise issues of the practicality of calculation and accurate assessment, and are highly arbitrary in their implications for entitlement.

It is quite unrealistic to assume that a psychological impairment has the same amenability to modification that physical impairment has, and Medical Practitioners are not trained in psychometric tests that allow such quantification. Nor can they apply reliable psychological tests for malingering, unlike psychologists.

"Secondary" psychological impairment has obviously been precluded using some criteria in the approved Bill, failing to consider the nature of psychological impairment ...

The development of a proper process of assessment and entitlement to compensation must be established by both psychological and psychiatric experts, and should not be legislated without consideration of the complexity of the issues, or ignored because it is too difficult for legislators to tackle.

I urge you to vote against the Bill and ensure that appropriate amendments are made such that psychologists are able to assess mental disorders using scientifically respectable guidelines and legislation that properly takes into account the nature of such disorders.

I have been flooded with emails and I shall quote from just a few. Maria White from Bathurst wrote:

I am writing to you in the hope that you or someone close to you incurs the injustice of suffering an injury at work. I hope that you then receive the same treatment that I have received as a workers' compensation claimant, i.e. nothing but bastardisation from the Workers' Compensation Insurer, including the delay tactics, lack of correspondence, the indignity of having to present yourself to two Orthopaedic Surgeons within a 12 month period and still no offer of appropriate treatment for injuries sustained during work.

It is also my wish that you feel that you have two steel cisterns plunging into the base of your head every day, that your lower back is never without pain, that you are not even able to sweep the floor without the need to stop and regain your composure. I hope that you do not gain any relief from going to bed. That any position you try to find comfortable exacerbates your injury. That you are unable to lie on your back, that you are unable to lie on your stomach because it feels that a ton of bricks is being piled onto your lower back. That you are not able to find relief from sleeping on your right or left side because of the steel cisterns pumping away in your neck and also that you feel your hips are grinding themselves away. That you wake constantly through the night with numbness in your shoulders, hands and fingers, but more than this I hope you experience chronic migraine headaches, day in and day out and that like me you cannot, because of an ingrained work ethic and the work load take time off for your injury to heal and also because the Insurance Company your employer faithfully pays Workers' Compensation to fails to understand your injury.

I wish for you too that your quality of life is impaired, that your relationships are strained and that by the time you finish work and arrive home that the pain is so debilitating that you can barely think straight, let alone consider undertaking your home duties, due to your financial position where you cannot afford a housekeeper, nanny, gardener, or chief cook and bottle washer there is little option but to undertake these roles yourself.

Thank you to all Members of the NSW State Parliament who have determined that you have the inalienable right to make changes to Workers' Compensation legislation without the need to consult injured workers or your constituents.

Bill Weston, an injured worker from Injuries Australia, stated:

There continues to be a conflict of information with regard to the New South Wales workers compensation scheme. State Labor Government releases information and makes statements, and just as quickly this information and the statements are shown to be inaccurate.

One has to wonder exactly what is the real condition of the workers compensation scheme, if it is as bad as the Government claims, who is in fact responsible?

Injuries Australia wonders who is really behind these proposed changes, could it be the multi-national insurance companies exerting pressure in return for premium concessions.

Injuries Australia also wonders if the State Labor Government is working in the best interest of the people of New South Wales, or in the best interest of the State Labor Party itself.

Injuries Australia is of the opinion that there is in fact no financial crisis within the workers compensation scheme (as shown by independent reports submitted to you by the Australian Plaintiff Lawyers Association), and this supposed financial crisis is the basis for the Government's Workers Compensation Legislation Amendment Bill 2001 ...

The time has come for all interested parties to get together and to formulate a workers compensation scheme that will achieve financial viability, while maintaining fair and just benefits and conditions for the States work injured, and affordable premiums for the States employers. You now have the ability to either cave in to Premier Carr's demands, or take the first step towards creating a scheme to be proud of, one that other States will see as a role model to follow.

Injuries Australia respectfully asks that you deny this Bill passage.

Jim Maitland of Taperell Rutledge, lawyers, on behalf of the Central Coast Law Society, stated:

Central Coast lawyers oppose the Labor Government's proposal to amend the WorkCover Scheme in a way which will severely reduce the entitlement of injured workers and remove their right to a fair, impartial and judicial assessment of their claims.

The Government has been creating an artificial atmosphere of crisis based on actuarial estimates when in fact the WorkCover Fund is in a very healthy state. Government ministers have been claiming that the WorkCover Scheme is in deficit, however we questioned the reliability of statistics and methodology upon which this deficit is claimed.

WorkCover's asset base rose from \$3.7 billion in 1995 to \$6.317 billion in 2000. In 1999/2000 WorkCover and current liabilities of \$2.317 billion of which only \$1.794 billion was for outstanding claims. Accordingly there appears to be a \$4.723 billion surplus.

There are also so-called non-current liabilities of \$5.9 billion which are set aside to pay claims which may have to be met over the following 40 years. However, many claims will not be paid for anywhere near as long as 40 years and many more are settled by commutation payment to the victim of a one off lump sum.

**The Hon. Malcolm Jones:** Point of order: The Hon. Ian Cohen is simply reading out other people's points of view and not his own. He is reading letters written by others.

**The Hon. IAN COHEN:** To the point of order: I am reading out submissions that have been sent to me that are arguments reinforcing the case against WorkCover. In many cases these people have specifically asked that I make representations on their behalf. I am not reading the entirety of the letters but quoting only certain aspects. In fact, I did not read one letter that was not signed. I have always quoted representations from constituents to reinforce arguments and I believe that is reasonable.

**The DEPUTY-PRESIDENT (Reverend the Hon. Fred Nile):** Order! There is no point of order. The Hon. Ian Cohen is following the correct conventions of the House.

**The Hon. IAN COHEN:** Jim Maitland further stated:

Injured workers will no longer have the right to have the claims decided by an independent judicial body.

The Labor Government proposal is that the Compensation Court which has served to properly compensate injured workers and protect them from insurance and bureaucrats will be virtually eliminated. It will only become involved in claims if there is a complex and novel issue of law to be decided.

Workers will not have the right to appeal to any Court. Matters can only be internally reviewed by another Commissioner within the Claims Assessment Service.

The Commissioners in this Service will not deal with real people—they will receive files and the matter will be decided behind closed doors. Workers will not have the right to give evidence or be heard.

Shaughn Morgan, Director of the Practice and Community Services Division of the Law Society New South Wales, stated:

The Workers Compensation Amendment Bill, 2001 empowers the Minister to effectively strip workers' rights to a hearing and provides for an effectively unappealable process. More importantly the Act empowers the Minister to remove the rights of injured people without any restriction.

The more offensive aspect of the Bill are as follows:

1. The introduction of binding medical panels to assess permanent impairment. The medical assessor is free to conduct his own investigation independent of the worker. The assessment will be binding in respect of (a) degree of impairment; (b) proportionment of pre-existing impairment; and (c) whether or not the impairment is permanent.

[Section 326]

2. The assessor is not obliged to examine the worker or record the workers' subjective complaints.
3. The provision for lump sum entitlement for psychological injury is set at not less than 10% whole body impairment. This is an unreasonably high threshold.

Psychological injury resulting in impairment cannot be added to physical impairment.

4. Severe psychological impairment resulting from a primary physical injury is not compensable.
5. The introduction of an 8% threshold for Section 67 benefits is still too high eg 15% permanent impairment of the back after the deductible for pre-existing impairment equates to 7.5% whole of body ie fails to meet the threshold. 20% permanent impairment of the neck after the deductible equates to 7.2% whole of body ie fails to meet the threshold.
6. WorkCover can in fact reduce the amounts payable for permanent impairment by simply issuing guidelines increasing the "pre-existing injury deductible". This can then be used to eliminate the right to pain and suffering lump sums as the worker fails to reach the threshold.
7. In any event, all matters of entitlements for lump sum benefits for
  - i. Physical injury
  - ii. Psychological injury; and
  - iii. Pain and suffering are illusory as the Minister may by regulation adjust the thresholds and monetary amounts for compensation.

Workers rights are not set out in this Bill, in fact workers' rights are to be determined over the next six months by Guidelines, Regulations and Orders, all of which will be written by WorkCover under the Minister's direction.

The permanent impairment rights, such as they are, are completely circumvented by Clause 322 (page 67). This Clause like Clause 8 (page 28), completely overrides the right to lump sums and leaves it to WorkCover to decide how the law will operate.

Even in the event the worker comes before the new Commission all procedures, assessments, determinations and practices are decided by Rules made by the Minister.

In adopting a method of making Orders, Guidelines and Regulations the Government has effectively removed Parliament's role. There is no possibility of informed scrutiny of the Minister's or WorkCover's actions.

8. Having suffered the loss of the Workers Compensation Court of New South Wales, which indisputably has protected workers for many years, all claims will now be dealt with, supposedly, by arbitration. The proposed system is totally unsatisfactory for the following reasons:-
  - i. The Arbitrators have no tenure and may be removed by the President at any time
  - ii. Arbitrators may decide to determine the matter without any hearing or conference, such decision is probably unappealable
  - iii. The Arbitrations are not a Court of record therefore there can be no appeal in relation to errors of fact or law arising out of anything that was said at the Arbitration
  - iv. The Arbitrators are not required to give reasons making an appeal from his determination probably impossible
  - v. Notwithstanding all these deficiencies there will be no appeals from Arbitrator's' decisions as the workers must:
    - a. obtain leave to appeal
    - b. demonstrate that at least \$5,000.00 or more awarded in a decision is appealed against and that he will improve his position by more than 20 %.
    - c. Thus there will be no appeals in respect of closed periods, medical expenses and Section 66 and Section 67 entitlements. The appeal process is farcical.

Mrs Carole Poteris, who wrote to me on behalf of her family, stated:

I am writing as we are extremely concerned about the proposed changes to the Workers Compensation Act and in our particular case the retrospectivity of greatly reduced compensation.

My son was employed as an apprentice carpenter when he was badly injured in February 1999. After all the non-invasive treatments were exhausted, he had a laminectomy and spinal fusion in May 2000. From that time, he has been attending hydrotherapy, physiotherapy and has pain management treatment to try to regain some semblance of a normal life. He most likely faces another operation as one of the titanium screws has broken and another two have become loose causing a constant ache.



He was aged 22 years at the time of his accident and was independent, living away from home. When his benefits were reduced to \$250 net per week in August 1999 he was forced to return to our home, as the benefits did not cover his basic living expenses. Is extremely fortunate he is not married with a mortgage and children and was able to return to our family home.

During the past 28 months not only did he have to endure physical pain but was treated with indifference and sometimes what amounted to contempt by the various bodies who have controlled his life since the accident. His fortnightly benefits have been irregular at times leaving him with no money at all. My husband and I have had to advance money on many occasions for his expenses, which has caused a strain on our own finances. Our son plans to reimburse us when his settlement is finalised.

Money cannot replace what my son has endured but a fair, adequate and reasonable compensation will ease some of the burden of accumulated debts and income while he studies for a new career. In the past two years we have met other people in our situation and the thought of the injured having no access to Common Law and their compensation assessed by people without examination and without any appeal is abhorrent.

We plead with you to please seriously consider the genuine cases like my son, who through no fault of their own, lose years from their life and the workforce and are financially and career wise years behind their contemporaries.

We ask that you are provided with all the details of the changes to Workers Compensation and their ramifications and voting on the legislation be delayed until all the changes are known and debated at length, as your vote will seriously impact on the future of all workers.

Malcolm Choat sent me an e-mail, which states:

There is a lot of community anger and worry about the Bill. Yet the Government neither appears to care nor does it allow a full examination and discussion of the changes.

Many traditional Labor Party voters are extremely disillusioned by the ALP and actions of the ALP government. They will be looking for an alternative political party to support; a party that has not lost sight of its background and its principles.

I will not invite honourable members to guess which party Mr Choat supports. He is a very disenchanted Labor voter. Arthur Crook writes:

... it excludes the possibility of psychologists acting as "Medical Assessors" within the WorkCover system, by limiting the makeup of the group of Assessors to medical practitioners only (contrary to previous legislation and practice), to the detriment of the public and the State in that proper assessment of the nature and scope of psychological injuries, by trained professional psychologists, is crucial for effective and efficient treatment of them. Medical practitioners are not adequately trained to assess such injuries. This change has been very much "last minute" ... with no consultation whatsoever.

It is likely that measurements of psychological impairment including neurological functioning will be based on the American Medical Association's Guides, a conceptually outdated system subject to much well-founded criticism. This usage is explicitly contrary to the APS's and the RANZCP's joint recommendation that the APS's Guidelines regarding psychological (including psychiatric) impairment be adopted.

At various points the Bill fails to take account of the complexities of psychological disorders (delayed onset, re-occurrence, and so on) which are not countenanced in sections relating to time-limits for benefits and access to avenues for compensation.

**The Hon. Doug Moppett:** We know your little trick: You send these people a copy of *Hansard* with their names in it and then you get them on your database.

**The Hon. IAN COHEN:** These letters are unsolicited. I am sure honourable members have a pile of equally legitimate correspondence.

**The Hon. Doug Moppett:** You want to put their names on the record so that you can send them a copy of *Hansard* and say, "Look what I did for you."

**The Hon. IAN COHEN:** The reality is that I can hardly cope with my database let alone ensure it functions appropriately. Those who work closely with me will attest to that.

**The Hon. Doug Moppett:** It is no longer megabytes but gigabytes.

**The Hon. IAN COHEN:** Indeed. Mr Kwok Kei Chan has written to say:

- it lifts the threshold for pain and suffering and access to common law so high that most workers entitled to compo won't get it .
- it introduces an American style assessment system that has the effect of reducing benefits.
- there is no appeal to decisions made behind closed doors.
- reduced access to recognised psychological stress.
- fails to address major issue of employers evading premium payments.

Paul Baker wrote to say:

My back is stuffed. I am 35 years old. I got injured loading diplomatic baggage on to a plane. There is negligence in the way the company had me working.

I can not go back to my old job. I was a bricklayer. What I want to know is will you pay my rent and my bills and feed my kids?

I can answer that one for you. No you will not so how can you let the airline that is negligent get away with stuffing up my back and take away my right to sue them?

If WorkCover done their job right and done a few more prosecutions then we might not have so many people getting injured. I would like to say that I raised issues to WorkCover in the past and I still have not seen changes in my work place at the airport.

People still cop the same injuries.

Peter Irwin stated:

As an Occupational Health & Safety Professional from the Mining & Construction Industries for the past 35 years, I find the proposed changes archaic and prehistoric for victims of accidents or accidental damage for injuries sustained particularly for people like myself who have travelled from job to job, state to state, as is required in my profession.

I have a document setting out detailed levels of impairment and descriptions of employee work injuries, and I will refer to it shortly. The Minister for Industrial Relations said:

Under the bill, workers still need to demonstrate fault and a 25 per cent impairment, which is determined using the impairment guidelines.

As the legislation requires greater than 25 per cent impairment from an injury I have been asked to consider—and in turn I ask the House to consider—the details from the following examples. A 29-year-old spare parts salesman suffered impact injuries to both legs resulting in 14 operations, the last being 20 months after the accident. He is permanently limited to semi-sedentary work prospects, and has a permanent requirement to use a brace on the right leg to prevent collapsing while walking. He uses sleeping tablets every night to assist in sleeping and consumes six to 12 pain-relieving tablets every day. He has limited capacity to engage in social activities and suffers loss of confidence. His physiotherapy was complicated by an episode of sepsis and osteomyelitis. His impairment is 18 per cent of the whole person under the American system.

A 26-year-old enrolled nurse was injured whilst transferring a patient. She suffered a disc lesion resulting in a permanent incapacity to lift more than five kilograms or undertake any employment or activity that involves bending, pushing or pulling. The injury has resulted in constant pain and interferes with her ability to undertake housework, domestic chores. She has a reduced capacity to enjoy and participate in sexual activity. Her impairment is 12 per cent of the whole person under the American system.

A 26-year-old plumber and first-grade rugby league player was injured when his employer refused to shore up a trench which collapsed on him. He suffered a severe injury to his foot including the loss of his third and fourth toes. He has suffered the loss of his football career and his ability to work as plumber. He has lost the ability to engage in simple social and domestic activities. He is unable to walk without a limp and unable to stand for long periods of time. His impairment is less than 25 per cent under the American system.

A 40-year-old truck driver, married with children, fell four metres into a concrete pit due to there being no safety rail. He suffered a brain injury and a shoulder injury requiring surgery with a possibility of future shoulder replacement. He has lost the strength in both arms and suffers severe restrictions in movement, so much so that his wife had to bathe him for six months. He is unlikely to ever work again. His impairment is less than 25 per cent.

A 15-year-old boy was carrying a double mattress and tripped whilst stepping over work material on the workshop floor. He suffered a severe injury to his back and required a spinal operation. He is permanently unfit for most work. His impairment is less than 20 per cent.

A 40-year-old employee of a rental company, who is married with children, was sent to collect a washing machine single-handedly. He is no longer able to lift or bend, is in constant pain, unable to sleep comfortably, unable to sit or stand for long periods of time, and is unlikely to ever work again. His impairment is less than 22 per cent.

A 33-year-old coalminer, married with 2 children, aged 7 and 10, suffered a back injury working on machinery known by the employer to be faulty. The injury led to unrelenting pain in the back and left leg. He underwent spinal fusion surgery. Four years later he underwent further surgery to insert a spinal cord stimulator.

He is unable to engage in any ordinary activity in life without substantial pain and discomfort. His back pain has led to decimation of his sex life. His wife cares for him daily. His impairment is less than 25 per cent.

A 25-year-old service station attendant was required by his employer to climb through the ceiling to reach keys that had been accidentally locked by the employer in an internal room. The ceiling collapsed. His injuries were to the neck and elbow. He suffered numbness in both legs. He has difficulty dressing himself and difficulty sleeping. He has a restricted capacity to work. He is unable to sit or stand for long periods of time, and he is unable to lift more than 10 kilograms. He experiences daily pain. His impairment is less than 25 per cent.

A 43-year-old factory worker had part of his right-hand amputated when it was drawn into a machine not properly guarded by the employer. He is unlikely to return to employment. His impairment is 18 per cent. A 22-year-old construction worker suffered crush injuries to his hand, requiring skin grafting and the insertion of cannulated screws. He has permanent restriction and is unable to undertake labouring work. Future employment prospects are severely limited. His impairment is 19 per cent.

A 15-year-old school student working part-time at a McDonald's restaurant allegedly was required by his employer to lift a 32 kilogram load, in breach of the Occupational Health and Safety Act. He injured his back, which resulted in his undergoing spinal surgery. He has constant sciatica in both legs. He experiences difficulty sitting and standing, and suffers constant and unrelenting pain. His impairment is 20 per cent.

A 42-year-old female stores assistant was injured when she was crushed by a forklift whilst employed by Qantas. She has a permanent injury to the neck, thoracic spine and chest. She is unable to undertake her second job at Star City Casino. Her impairment is approximately 10 per cent.

A 34-year-old storeman was required to manhandle a 44 gallon drum and suffered an injury to his back which required spinal surgery. He has difficulty standing, sitting, bending or lifting. He has a limited prospect of ever returning to work. His impairment is 15 per cent.

A 37-year-old hardware shop employee who is married with three children suffered an injury to the back causing sciatica in both legs. He has constant and unrelenting pain that is exacerbated by any activity. He is dependent upon pain-killing medication daily. The impairment is 15 per cent.

This list goes on, but I shall not continue. The level of injuries involved in those examples is shocking. It is interesting to hear vilification of lawyers in this debate and in society. John McGuire from Nagle and McGuire, solicitors, wrote to me stating:

I am frustrated because every week myself and other lawyers see grown men and women in tears in our offices in pain, suicidal because of the inadequacy of their current workers compensation benefits. They do not know what is soon to come.

I am also frustrated because of the miniscule level of real thought dedicated to this important issue by our elected representatives.

I have probably another 30 examples from that list of injuries I have read to the House, but I shall not take up the time to read them all. In a letter to me barrister Ross Goodridge said:

I considered presenting this as a quiz to all Members of Parliament asking each Member to tick the cases they thought not serious injuries and afterwards providing the assessments. As instructive as this may have been I will not trivialise the injured in this way. Surely fairness speaks for itself.

These are major injuries. If members of Parliament, or their loved ones, had suffered those types of injuries I wonder whether they might reconsider the passage of this bill because it does not give adequate protection to the workers of this State. It must be horrible to be injured at work when the employer—perhaps a corporation, a powerful body—is at fault. Regardless of the fault, these people have had their lives ruined.

Some of the examples I have given to the House involved children in their first work experience, especially the young boy at McDonald's. These workers have to deal with powerful organisations that have an incredible degree of control over their wellbeing whilst they continue to live in pain and often are unable to concentrate on the job at hand. They need and deserve the support and protection that should be offered by the Government.

There have been many examples of ways to ameliorate the so-called blow-out. There have been many comments also about whether there is in fact a blow-out. I have said before—of course again it will fall on deaf ears—that I believe this process should be slowed down. The legislation should be deferred over the winter

recess so that proper consultation can take place. There is a huge difference between notification and proper consultation. During the break a process could be worked out that effectively gives justice to all parties, particularly injured workers who, in many cases, will suffer for the rest of their lives. They deserve some degree of support from this Government.

**The Hon. RICK COLLESS** [5.59 p.m.]: The Workers Compensation Legislation Amendment Bill (No 2) has created much publicity in the community and a sad spectacle on parliamentary process in New South Wales. One of the prime considerations in any debate is to take account of the quality of life of the people affected by the debate. People use the term "quality of life" without really understanding what it means.

To get a wide-reaching overview of the quality of life aspirations of any community we must first work at enunciating the quality of life statement for all people in that community. The vast majority of people in the community will have very similar aspirations about the quality of life. Most people will want to enjoy the simple things in life: a comfortable home; an affordable holiday each year; and a meaningful job in which they feel secure and safe. Quality of life is a collective summary of what is important to the community and why.

We should consider a number of aspects to produce a sound reflection of community expectations. First, it is important to aspire to economic wellbeing within the community. The whole community must be prosperous, not only the individuals who make up the community. Prosperity refers to what people can gain in their lives rather than the accumulation of material assets.

Second, people are social animals who need regular, communal contact. They like to be surrounded by strong relationships. That is an interesting thought for the Premier and Treasurer to ponder, given their abandonment of their relationship with their parliamentary colleagues on Tuesday last week as they ducked for cover in the bowels of the State Library and Parliament House, rather than reinforcing the relationship with their troops by leading them through the picket line.

The Premier preferred to sneak arrogantly to the front steps of Parliament House and blow a couple of kisses to his union mates before defiantly giving them his greatest insult, the V for victory sign, at their expense. Strong relationships between employer and employee can improve expectations of both parties about what they are prepared to give the relationship. Third, all people need to experience challenge, stimulus and enthusiasm in the application of their chosen career. As the old saying goes, "If you want something done, give it to a busy man." People who have challenges before them will try to rise to the occasion. We should consider this as a stimulus when we describe our quality of life.

Fourth, all people want to make a meaningful contribution to their jobs. This is not something that can be formulated by an employer and distributed to the work force; it is something that must be developed and arrived at jointly by both parties. One must wonder at the meaningful contribution enjoyed by the Minister in another place, the Hon. Kimberley Maxwell Yeadon, representing the Minister for Industrial Relations. Last week he was unable to deliver the second reading on the Workers Compensation Legislation Amendment Bill (No 2) because, if he had, he would have been disendorsed by his Labour leftie mates. His only contribution would have been a hasty exit from Parliament at the next election.

People in the community need jobs to generate enough income to enjoy their quality of life. People in all communities need jobs. If the cost of providing those jobs is increasing constantly, jobs will be lost in all industries across the board. There are many impediments to locally based businesses in rural and regional areas. Workers compensation premiums, payroll tax and State-inflicted stamp duties impact severely on country businesses. The cost of these taxes as an impost on employing people must be rationalised if regional development is once again to become a reality. The bill has the broad objective of reducing the employer's cost of providing adequate and fair workers compensation to his workers.

That objective is most commendable, and is supported by business operators throughout New South Wales as the sector that currently bears the cost of exorbitant workers compensation premiums. A question that arises as the Government attempts to declare the extent of the blow-out in the WorkCover accounts is why the Government does not provide the actuarial advice from Tillinghast-Towers Perrin that reveals the extent of the problem.

Why will the Government not agree to an independent actuarial assessment of the situation? Is it because the figures have been somewhat embellished to improve the perception of the Government as a financial manager in the run-up to the next election? If the figures attributed to Tillinghast-Towers Perrin are

correct, the Government has already shown its true financial management colours by allowing WorkCover to deteriorate to the point of having unfunded liabilities of \$2.18 million.

Where is the actuarial statement? Why has the actuarial statement not been tabled in this debate to confirm statements made by the Premier? What exactly is the Government trying to hide? This situation has occurred in just six years. The unfunded liability has blown out by \$2.98 million since the Carr Government was elected in 1995. The previous Coalition Government left WorkCover in the enviable position of being \$800 million in the black, but in just six years its unfunded liability has deteriorated by \$2.98 million. The Premier claimed that the unfunded WorkCover liability was growing by \$1 million per day. The reality is that the unfunded liability has been growing at the rate of \$1.314 million per day since this Government came to office in 1995.

Honourable members can calculate the figures for themselves: divide \$2.98 million by the 324 weeks that the Government has been in office, then divide that figure by seven and the answer is \$1.314 million per day. Why has it taken Bob Carr so long to wake up to this extraordinary blow-out? Has the Premier been asleep at the wheel? Has his Treasurer been snoozing on the freeway? Have both of them dumped this problem on the special Minister of State as the fall guy for workers compensation? The Minister for Health drew a similarity between the HIH collapse and the future of WorkCover if no action is taken. The big difference is that the collapse of HIH was a result of inappropriate management in the private sector: people had their fingers in the till.

The unfunded liability of WorkCover is a result of incompetent financial management by the Carr Labor Government, with its management now presided over by the Special Minister of State, the Hon. John Della Bosca. This is a typical end result for Labor governments spanning the dimension of time. Coalition governments put the State back in the black by taking tough, financially responsible decisions that benefit the community in the longer term. Labor governments win back government on unfunded promises and, subsequently, fund those promises on bankcard.

They develop a sense of extraordinary arrogance, such as we have seen from a number of Ministers in the past few months and epitomised by the Premier's special blend of arrogance in the past week to the unions, the community and the people of New South Wales. Such arrogance is also epitomised by the Premier's childish schoolyard threats to write to all employers in New South Wales blaming his political opponents for the lack of financial management capacity of his Ministers. Who else has the Premier threatened behind closed doors in this debate?

**The Hon. John Della Bosca:** He doesn't do that sort of thing.

**The Hon. RICK COLLESS:** He threatened all his Ministers and members, ordering them to March leaderless up Macquarie Street, across the picket line and into Parliament House as he stood on the steps waving. What a disgraceful display! What a lack of leadership! What a display of absolute arrogance from the Premier of New South Wales! Employers have a legal and moral responsibility to provide workers compensation insurance for their employees. They also have a responsibility to provide a safe workplace environment for their employees. Much workplace safety improvement has been achieved in the past few decades.

When I was a very young child I saw a neighbour get off his tractor to remove a stick from the front of a power take-off hay baler. He did not turn the tractor off or disengage the baler, and the baler grabbed him. Luckily, his brother, who was working nearby, stopped the tractor before the farmer was dragged completely into the baler. He lost four fingers on his left hand and sustained severe lacerations to his left arm up to his shoulder. He was lucky not to lose his arm or his life.

Since those days there have been vast improvements in workplace safety on farms, in factories and in offices. Employers have a much greater awareness of occupational health and safety issues and the workplace is a much safer place than it was a decade ago. Employees have a right to expect that their employers will provide a safe work environment and that the workers compensation scheme will provide for them in the event of an accident that might prevent them from earning their income for any period of time.

Employees also have a responsibility to undertake safe work practices and always be responsible for their own safety in the workplace. Workers themselves are also now more aware of their individual responsibilities in this regard. There are two tenets, two guiding principles, as the Leader of the National Party

in another place, the Hon. George Souris, clearly stated last week. He pointed out that reform for workers compensation involves the Government consulting widely and coming up with a package that balances the needs of employers with the needs of genuinely injured workers. The need of the employers is lower premiums, and the need of the workers is access to adequate compensation.

The need to strike the right balance between these two guiding principles is the responsibility of all members of this House. One of the major objectives of the bill is to remove the requirement for the Compensation Court to determine lump sum payouts of compensation benefits. This should reduce the legal costs of lump sum payout determinations, although the Minister has failed to release the actuarial advice the Government has received in this regard. Commutation to a lump sum can only proceed with the agreement of the worker following legal advice as to the full legal ramifications. I have a concern that many working people not practised in legal language and procedures will have great difficulty in understanding the full legal ramifications of the agreement. Who will provide this advice to the worker? Who will pay for this advice to the worker? Will it be provided and paid for by the advisory services to be established under WorkCover? How will the cost of providing this advice compare with the cost of legal proceedings had the matter been determined by the Compensation Court?

The commutation agreement is not clearly defined in the bill. It cannot be reviewed or challenged by the new Workers Compensation Commission or by a court, thereby removing that right of appeal to the worker. The worker does have a 14-day cooling off period after the agreement is made in which to withdraw by giving notice in writing to the insurer. But the bill does not clarify when the agreement becomes legally binding, so when does the 14-day period begin? Is it when the agreement is signed by both parties? Is it after it is registered? The amount payable under the commutation agreement must be paid within seven days. How does this relate to the 14 days? There should be a provision in the bill to prevent registration of an agreement for at least 14 days after the making of the agreement to allow the worker the full 14 days to fully review the agreement. This would protect the worker should the insurer apply undue pressure on the worker to proceed with the commutation.

The term "legally incapacitated" is used in the bill, yet I was unable to find a definition of this expression. If a worker is legally incapacitated by either age or mental capacity, the commutation can be determined by the Commission without agreement of the worker. The issue of compensation for persons deemed to be legally incapacitated because of diminished mental capacity is an area for concern. These people have no recourse to any agreement, any legal advice or any requirement to understand the full legal ramifications of the determination.

It is understood that such people may find it impossible to absorb complex issues such as these, but the bill in its current form discriminates against them. To apply the same procedure to people in older age groups implies that people in older age groups are incapable of making an agreement and understanding the ramifications of such agreement simply because of age. This is an insult to older people in our community, and again reflects the arrogance of the Government and the lack of concern it has for the aged and the less fortunate in the community. There is considerable objection to this bill from the legal fraternity, as might be expected. They raise questions about the financial state of WorkCover, and question the actuarial estimates and reliability of statistics and methodology used by the Government.

Once again, I emphasise that the Government could silence this argument if only they would release the actuarial estimates. The actuarial estimates are based upon paying the worker a weekly component for the remainder of the worker's working life. In many cases this is reduced by the commutation to a one-off lump sum payment, worth about three to five years of weekly payments. In his contribution to the debate the Hon. Ian Cohen quoted from material provided by the Central Coast Law Society. I will expand a little on what the society said. That material included the following statement:

In working out premiums, WorkCover requires insurers to estimate most claims with a weekly component to the retirement age of the injured worker. However, most claims are settled with a lump sum worth about 3 to 5 years of weekly payments plus components for lump sum entitlements and costs. As a result employers are paying premiums far in excess of what is really required—up to 300 per cent or 400 per cent higher than necessary.

Many other submissions received from the legal fraternity expressed similar concerns. On the other hand, I have also received many submissions from business people and employers, who strongly support this bill in an effort to reduce the burden of workers compensation premiums that are currently increasing at full gallop. The biggest employer in my home town of Inverell is the local abattoir, which trades as Bindaree Beef and employs 600 people. The abattoir has just received notification that its premiums for the 2001-2 year will be 15 per cent of wages. Bindaree Beef has a wages bill in excess of \$15 million per year, and a workers compensation bill of \$2.34 million per year.

An impost of this magnitude, coupled with the other taxes on employment such as payroll tax, severely restricts the capacity of Bindaree Beef to employ more people and to expand its business, particularly when these costs on employment are so much lower in that company's plant at Murgon, just over the Queensland border. The Murgon plant pays only 8.6 per cent of wages, a saving of almost \$1 million per year in workers compensation premiums. When one couples that with lower payroll tax in Queensland, it becomes easy to understand why businesses would wish to relocate to Queensland. The variation in workers compensation between New South Wales and Queensland would allow Bindaree Beef to employ approximately 40 extra people for its current wages bill. It would allow the company to increase productivity by approximately 6.6 per cent. There would be an extra \$1 million in wages spent in Inverell each year. There would be the extra demand for 20,000 head of cattle from the region each year.

The economic spin-offs for regional development and the economic wellbeing of local communities are enormous. I support improvements to workers compensation in New South Wales, but the improvements must encompass significant reductions in workers compensation premiums without fleecing the work force of genuine workers compensation benefits. Those caught with their fingers in the till and those who fraudulently make claims on the system should be pursued to the fullest extent of the law. My final message to the Government is: Come clean with the actuarial estimates and the true financial condition of the WorkCover Authority. Put the documents from Tillinghast Towers Perrin on the table for scrutiny, and commission extra independent reports, before I have any confidence in supporting this bill.

**The Hon. PATRICIA FORSYTHE** [6.18 p.m.]: What the Government is asking the Opposition to do in respect of this legislation is buy a pig in a poke.

[Interruption]

It is buying a pig in a poke. The honourable member would know all about it.

**The Hon. John Della Bosca**: You've been talking to the Teachers Federation.

**The Hon. PATRICIA FORSYTHE**: No, I have not. I have been using this expression for some weeks because, to my mind, that is what we are being asked to do. Members of this House have been told by the Government, "Trust us. We are the Government." But that is not good enough.

**The Hon. John Della Bosca**: You are saying, "Trust us, and—

**The Hon. PATRICIA FORSYTHE**: No, you are saying, "Trust us." The Government said yesterday it was necessary to have a framework in place. The Opposition would like more than the framework. The Opposition would like more than the skeleton; it would like the flesh on the bones as well. It is time to make decisions, but not based merely on the Government's statement, "Trust us". That is not good enough for the Opposition. As we know from last week's demonstration outside this place, the events of last week and the volume of correspondence we have received, it is certainly not good enough for the community. We owe it to the community to get the workers compensation scheme right.

I have been fascinated listening to so many members of this House express surprise that the Opposition is not wholeheartedly embracing the legislation. That is a fundamental misunderstanding of the philosophy that underpins liberalism. Many of us are here because at the end of the day we believe in the rights of the individual. Nothing could be more important than protecting the rights of injured workers. Nothing could demonstrate more our commitment to liberalism than our preparedness to stand up for injured workers.

**The Hon. John Johnson**: You ought to read the *Hansard* of when workers compensation was first introduced.

**The Hon. PATRICIA FORSYTHE**: I have read many of those debates.

**The Hon. John Johnson**: It is a shame that more of your fellow compatriots have not.

**The Hon. PATRICIA FORSYTHE**: As a Liberal I know that our abiding philosophy has always been about the rights of individuals. I would be doing a disservice, as a Liberal, not to say that that is one of the key reasons so many of my colleagues and I have taken the position that we do. That is not to say that we do not stand for and want to see a strong and vibrant business community. It pains us to know that businesses in other

States are able to offer a better deal to many businesses in this State. For example, a company on the North Coast of New South Wales, whose locational factors do not tie it to New South Wales, may be better off economically to leave New South Wales. Perhaps that company could go to Queensland, where workers compensation premiums are lower. That pains us, but it is important that we get this legislation right. Most importantly, we want to know that the Government not only has consulted but has listened clearly to the messages that have been coming through, especially those in the past week.

I am absolutely certain that the Minister would have received emails, letters and messages in many other ways. Along with other members, he would have been touched by the concerns of injured workers about the impact of the legislation. The Minister said that this is about getting the framework in place, but he did not say why that is so. Why is it so necessary now to take the framework and much of the rest of the legislation on trust? Why can we not wait until Justice Sheahan has reported before Parliament is due to return in September? Why is it not possible to place on record the medical assessment guidelines and the other issues up front? If the Opposition takes the Government on trust and the resulting process lets down the injured workers, people will ask the Opposition, "Why did you support the legislation?" If the Opposition merely says that it took the Government on trust, it would look weak. However, we have taken a very clear position, and that was expressed in correspondence from the Leader of the Opposition to the Premier on 25 June.

I am conscious of the Minister's second reading speech on the legislation that came before the House in November last year in which he talked about injured workers and occupational health and safety. Logically, much of the debate focused on injured workers and little on the prevention side. The bottom line is that workers are injured, because either they have not been appropriately trained or employers have a lack of understanding of appropriate occupational health and safety guidelines and conditions. Additionally, from time to time there will be an accident. I grew up in a household in which workers compensation was much discussed. My father dealt with workers compensation—he was on the management side of one of the BHP group of companies. He had a simple philosophy and he was unwilling to compromise just to accept some sort of settlement. His view was that the worker had been injured and either it was the company's fault and therefore the worker was entitled to absolutely everything or, if not, nothing! If the fault was not that of the worker, often the issue of fraud arose.

A few weeks ago I understood the Premier to say that fraud was one of the biggest issues in workers compensation claims. Yet in this debate I have heard the suggestion that fraud represents only a minor element in the blow-out of the deficit. We forget that the framework in which we now operate is a very different framework from the working conditions of a generation ago. Previously people on both sides, workers and managers, had a sense of loyalty to the company in which they worked. We now operate in a framework of part-time workers, and people moving in and out of occupations—that was never part of the tradition of times past. As I recall, my father was very proud that he knew the name of almost all of the hundreds of plant workers, many of whom had been employed there for 20 or 30 years. If a person was injured my father genuinely would have gone around to check on his well-being.

**The Hon. John Della Bosca:** Times have changed.

**The Hon. PATRICIA FORSYTHE:** Yes, times have changed and some of the issues that underline that shift have not been given sufficient attention. Businesses want premiums to come down, and they want solutions to problems. Business has a role in this as well. There has to be a sense of loyalty engendered on both sides. Perhaps if we had that we would have fewer people wanting to take advantage of various circumstances. The Opposition has certainly been interested in the rate of premiums, because nothing in the legislation makes a clear nexus between the premiums that businesses pay and how the legislation will bring down those premiums. In business there is a belief that passing this legislation will see a reduction in premiums. That has not been the message from the Government. I believe that the Government will focus merely on the deficit. One of the points made by Kerry Chikarovski in her correspondence to the Premier was about the need to be clearer on the actuarial assessment of how the proposed changes would reduce the deficit. Her letter was in the context of understanding how business will benefit by improved premiums. It is important that the Opposition get an understanding about the rules and the guidelines. I understand that the Minister has given some assurances about this.

**The Hon. John Della Bosca:** Every assurance.

**The Hon. PATRICIA FORSYTHE:** Every assurance will be tested when the bill is dealt with in the Committee stage. It is crucial that these rules and guidelines are subjected to parliamentary scrutiny. The Opposition also regards it as essential that the operation of the rules of the commission and the guidelines for the



operation of the medical panel be ratified by Parliament before the scheme commences. These are important issues and are safeguards that will assist the community to have better faith in what the Minister is trying to achieve. In her letter the Leader of the Opposition said—

**The Hon. John Della Bosca:** You quote her a lot.

**The Hon. PATRICIA FORSYTHE:** I am proud to quote her. She said:

The scheme cannot become operational before the determination of the impairment guidelines in any event.

That is the point I have made. Why the rush now? Why seek the framework—

**The Hon. John Della Bosca:** I will explain it later.

**The Hon. PATRICIA FORSYTHE:** You have said it, but you have not explained it. You have said that you want the framework in place. The Opposition believes it would be much more open and transparent if all the relevant matters were before the Parliament before the bill goes forward. It would be easier for the Opposition to have flesh on the bones, so to speak, rather than just the framework. It is essential that review of the scheme is carried out by the Auditor-General, not by the Minister. There has to be objectivity, impartiality and an engendering of confidence. Many of my colleagues have pointed to the fact that there is lack of information about the actuarial base. Amongst the myriad of correspondence I have received, one letter in particular made a number of pertinent points. That letter is from the personal injury and commercial lawyers Bale Boshev and Associates—a firm with which I am unfamiliar. The letter states:

Why the public is not told that WorkCover profit for the year ended June 2000 was \$36.5 million? How much more if injured workers are to receive less?

Why the public is not told that current assets of the WorkCover funds are approximately \$6.3 billion ... and that current liabilities are \$2.3 billion?

Why the public is not told that if a line was drawn in the sand today and a new system for injured workers was started, the NSW Government would receive a cash windfall of about \$4 billion?

These are the reasons for the Opposition seeking a broader inquiry.

**The Hon. John Della Bosca:** They will say anything.

**The Hon. PATRICIA FORSYTHE:** These allegations are being made in the public arena. The letter further states:

Is it true that the Government does not include in WorkCover actuarial calculations interest of about \$500 million a year?

Does it or does it not? The public raises these issues because the Government has been light on explanations. In terms of the financial accountability of WorkCover, the Opposition does not believe it has been given a full and clear picture. The Opposition has sought assurance from the Government on Opposition amendments. These amendments will tighten up the legislation and remove aspects on which we must take the Government on trust. Parliament should have a clear statement about the rules, the medical panel and the review of the scheme. The Minister has already given a commitment about the appointment of the president and deputy presidents. I look forward to that commitment by way of amendment. These are important issues for the Opposition. I will be interested in the Government's response in Committee.

*[The Deputy-President (The Hon. Janelle Saffin) left the chair at 6.33 p.m. The House resumed at 8.15 p.m.]*

**The Hon. MALCOLM JONES** [8.15 p.m.]: A serious problem exists with the realisation that the State's workers compensation scheme has an unfunded liability in excess of \$2 billion. Let us be clear about what this means. An unfunded liability is an unfunded liability; not a forecast of losses, not a projected debt, but a liability—worst-case liability—not covered by current assets. All these figures are provided by the Auditor-General, not by critics dug up from the various self-interest groups. The bill should be a management exercise. What it must not become is a wish list for those wishing to impress special interests, the left or employee groups. As the Minister warned, if costs to employers blow out, employment will suffer. For those whose heads are buried in some ideological sand, unemployment will become a huge issue in direct proportion to the degree of economic slowdown that may or may not happen, compounded by excessive on-costs to workers compensation.

The current scheme has a number of major flaws, and I am of the opinion that they are created by WorkCover having an unrealistic concept of how to run the scheme. Sometimes I think that the Government, and especially some members of the crossbench, do not understand that people go into business to make money. Insurance companies have had their costs nailed down to approximately 8 per cent of premiums. Normally insurance companies work on an administration charge of 25 to 30 per cent. From this they have a chance to make money—yes, make money! WorkCover has the insurance companies nailed down to 8 per cent. You get what you pay for, and that is indifferent administration. There is not a long queue of insurance companies waiting to get their avaricious snouts into this infinite trough, this infinite El Dorado. Far from it. If WorkCover and the community want better administration from insurers, like virtually everything else and other things in life, they will have to pay for it.

If they want enthusiasm and talent they have to have incentives. These incentives will not necessarily impact on costs, as the early recovery rate of case-managed injured workers will improve, which will more than compensate. Similarly, the medical profession must be adequately compensated for their treatment, tests and reports. It is not a problem to get doctors to fill out reports, but it is a real problem to get doctors to fill out reports promptly. They have to have an incentive, and that is adequate payment. A generous payment incentive to doctors will encourage promptness, which will be compensation for delivering better services. When legislating for tight time allowances in the processing of claims the biggest delay factors can be the response by doctors. Therefore, I strongly recommend adequate fees, otherwise claims will blow out time wise and costs will escalate out of all proportion to the fees charged.

**The Hon. John Johnson:** You've never seen a doctor ride a bike to work.

**The Hon. MALCOLM JONES:** Yes, I have, actually.

**The Hon. Duncan Gay:** What about Arthur Chesterfield-Evans?

**The Hon. MALCOLM JONES:** Let us stay with commonsense, please. If fees paid to the medical profession are capped or suppressed, only a second-rate level of doctor will be available and, once again, return to work can be delayed. Such delays are more expensive than the difference between the two levels of fees charged. This leads me to make brief mention of the amendments that I will move in Committee. Levying penalties on insurers for tardy responses while nailing down their administration costs is not a formula for great efficiency, but a formula to penalise insurers, their talents, distribution networks, et cetera, out of workers compensation. I will discuss that issue later. Other amendments relate to journey claims. At present if any employee goes to the pub every day on his way home, and many do, this becomes the normal journey home, and until he gets home he is covered by workers compensation. If the employee falls under a bus at 11.30 p.m. on Friday, he is covered by workers compensation and, technically, his employer is responsible. This is not a fair and proper intention of liability and should be stopped.

**The Hon. Ron Dyer:** Don't you believe in journey claims?

**The Hon. MALCOLM JONES:** No, I do not; not at all. I believe in journey claims if it is for the purpose of the business of the employer, yes.

**The Hon. John Johnson:** Journey claims!

**The Hon. MALCOLM JONES:** Yes. Do you want to discuss them now? I urge the Minister to constantly and vigilantly review the level of acceptance by the injured of those levels of benefits, and constantly and continually come back to Parliament, every six months, with advice about the levels of benefits for as long as the unfunded liability of the scheme is in existence. This is a management exercise as much as a reform bill. Therefore, as with any management exercise, the Minister must report the effectiveness of any reforms to Parliament to enable problems to be dealt with immediately.

Provided the Minister will return every six months to advise results, progress can be monitored to judge the effectiveness of these reforms. However, if the size of the unfunded liability does not reduce in, say, one year by more than 20 per cent, then more drastic action should be taken. Towards the end of the year, when the next tranche of workers compensation reforms are put to Parliament, I will be putting the case for reintroducing the role of insurance brokers into the scheme. In the past, small business in particular has relied on intermediaries for handling premiums and general advice. I propose that we go back to that way of doing things because it worked, and worked well. Since the exclusion of those advisers the scheme has experienced problems. Honourable members may recall that Premier Greiner removed them in 1987.

There are a number of relevant points that I would like to put on the record regarding this bill. Constant revision is the best tool for gauging adequacy. The announcements regarding premium discounts are sound, but will not have any effect on managing the unfunded liability of the scheme for probably five or six years. Similarly, for a similar length of time, occupational health and risk management issues will not have a positive impact on the unfunded liability. They are both plausible, good initiatives, but not terribly pertinent to this management exercise. I have continually emphasised that this is to be a management exercise. No doubt many on the crossbenches will see this as an opportunity to expound their wish lists so as to enhance benefits, irrespective of costs or size of the unfunded liability, simply to distribute to the plethora of lobbyists who are rebelling against any changes.

One option to consider in the fight to have injuries case managed more quickly is to have employers levied at excess on the compensation claim. For example, they pay the first \$1,000 of the claim in the event that they delay notification of that claim to the insurer with no acceptable reason. Currently the process of making a claim has some major problems not addressed by this bill. There are 55,000 claims lasting more than five days; and one in two claims, that is 26,000, is referred to the Workers Compensation Resolution Service. The current system could work a whole lot better by following some practices adopted in other States. For example, in Queensland doctors are very successful in resolving disputes. I am in favour of New South Wales considering using doctors to resolve issues, not merely conciliators who are trained in dispute resolution.

In the latest reincarnation of the bill will the following points be addressed? Formerly commissioners of the Workers Compensation Court were not bound by the rules of evidence. Will this apply in the new Workers Compensation Commission? I do not propose to move an amendment to that effect at this time, but I recommend that honourable members seriously consider this issue. A further legal issue exists currently under section 116: a claimant when engaging a lawyer does not pay the lawyer; the lawyer has to charge the insurer. Consider a lump sum settlement for a condition: the injured party has no way of knowing how much the lawyer is being paid. It is highly possible that the lawyer can be paid more than the injured person.

If the Government wants to speed up the process, it should make the lawyer work for the injured worker. Fixed price fees can then be negotiated, just like ordinary commerce. It would be novel to expose the legal profession to the normal conditions of trading. In this environment, time wasting would not be in the lawyers' best interests, and I am sure it would speed up the process.

**The Hon. John Johnson:** Malcolm, you have been reading some funny books.

**The Hon. MALCOLM JONES:** Yes, and I have been reading them for 30 years, Johno. When a claim is being made for benefits under sections 66 or 67—Table of maims, pain and suffering—the words, "I certify that I have taken independent legal advice" appear on the bottom of the form. Enter the legal profession! A whole industry, a very profitable lucrative industry, has developed around claims for workers compensation.

Some of the advertising is quite scandalous and promotes confrontation, and that can only extend the time of claims settlement and, of course, increase legal fees. The more lawyers are kept out of the scheme the better the scheme will recover. Employees will have some rights to seek redress at law. However, with improved capped benefits the likelihood of reverting to common law is less of an option and, therefore, the legal costs will be held in check. Of course, that is subject to the findings of the Sheahan inquiry.

Currently, even if the injured worker, his legal advisers and insurers agree on the terms of settlement, that settlement has to be ratified by the Workers Compensation Court. Even when everyone has agreed, a commissioner of the Workers Compensation Court can say that the claim is too low. The Minister heralded an end to this practice, and I believe that to be a good move. I also wish to comment on my experience regarding non-payment of WorkCover's contributions, incorrect payment of contributions and false claims.

First, with all sectors of industry, except subcontractors in the construction industry, compliance is currently very good for both paying contributions and paying appropriate contributions. The story for subcontractors is different. They are charged very high rates and have difficulty meeting costs. This may not be fully appreciated, but it is a real problem without a simple solution. The short-term contractual nature of the employment does not fit in easily with the WorkCover practice of deposit payment and end of year declarations. I suggest that WorkCover look at this problem in a constructive way—excuse the pun—to find a workable solution, as opposed to "These are the rules, obey them!" Contrary to the adverse comments made by some members in this House, I believe these people are genuinely honest and will comply, if compliance can be made more pragmatically.

I refer now to false claims. The new-look WorkCover has gone for speed, with penalties for those not going fast enough. I can only forecast that bludging on compo, that is, making false claims, will become a far more serious problem than it is currently, and as a result employers will end up paying. There has to be a degree of appropriate assessment, rather than just rushing things through for the sake of it.

Finally, I ask those who have commented on the bill to consider this: When an accident occurs, whether at two o'clock on a Friday afternoon or two o'clock on a Sunday morning at work, the injury and the financial consequences can be exactly the same. I am interested to know what private insurance arrangements are in place for all our outraged parliamentarians who are so affronted by these changes. I bet that there will be very few who have personal insurance; and the problems can be identical. So the huff and puff is extremely unlikely to be that sincere. Also, their own homes should be put in order first.

And so it is with almost everyone else in society. If a worker is so concerned about his family, mortgage, children, et cetera, why do so few buy sickness and accident cover? There is no argument that workers should be covered for industrial accidents. But be wary of the hyperbole and rhetoric that is likely not to be backed by concern genuine enough to create action to look after one's own personal liabilities first.

**The Hon. Dr PETER WONG** [8.33 p.m.]: The Unity Party cannot support the Government's Workers Compensation Legislation Amendment Bill (No 2) in its present form. I recognise that WorkCover has a significant deficit and this is probably increasing to some extent. I also agree with the Government that some form of workers compensation legislation is desirable and necessary. Some sections of the legal profession and the insurance industry have taken advantage and abused the system in the past. I have profound concerns with the lack of detail in this legislation. I, and my office, have been inundated with a mountain of correspondence about this legislation, as I am sure many other members of the Legislative Council have.

**The Hon. Richard Jones:** And emails.

**The Hon. Dr PETER WONG:** And emails, some of which I cannot download! I have had talks with many affected groups. Most of the correspondence and delegations have expressed varying degrees of alarm about the key aspects of the bill. They have also expressed anger at the Government's process in consulting, or failing to properly consult, the key players who will be affected by the legislation, including the unions, and legal and medical bodies.

The frustration and anger of the unions, and indeed of many members of the Labor Party, was made very clear last Tuesday—the unfortunate events of which I do not need to recount—when the Labor Council picket imposed at Parliament House was subsequently crossed by a majority of Government members. Whether one agrees or disagrees with the unionists' actions, one cannot deny that the unionists involved are deeply concerned about this proposed legislation—and I do not believe that that involved a misunderstanding about only some finer points. There is deep concern about fundamental aspects of the bill. Despite what has been reported in the press, the Labor Council continues to be opposed to the passage of this legislation and wants it to be significantly amended, as do major legal and medical bodies and those representing injured workers.

In addition, the proposed legislation that is before the House today is not a complete package. What we have is a framework in which most of the important sections will be filled in later by the Minister, by regulation. The Minister could easily pull a swifty and put in the detail without proper consideration by the Parliament—and on the evidence so far he may do just that. The Minister has not made a final decision on a large number of key elements; they are still being worked out. Of course, the report commissioned by the Government and the unions is not due to be presented until August.

It has not yet been clearly established what this bill is intended to achieve. The Government claims that the bill is vital to address a supposed crisis in the growing WorkCover scheme deficit. But it is debatable whether that deficit is actually growing at any significant rate, and it is further debatable whether this bill is necessary to control the deficit. I understand that there are many alternative measures, including better management of the WorkCover scheme, which may do away with the need to cut entitlements for injured workers or to put up premiums for employers. There is evidence of this in a large number of workers compensation schemes that operate in New South Wales that are well managed and are not operating at a deficit.

I draw attention to the employers represented by the Self-Insurers Association, which covers perhaps 60 per cent to 70 per cent of employees in New South Wales. The schemes run by these employers are managed well, have no deficit and do not require any legislative reform. It is interesting that the workers compensation of

most public employees is managed by a Treasury managed fund. There is no indication that this scheme is in any debt. In fact, the Treasurer told the recent budget estimates committee, "The Treasury managed funds, as a claims managed organisation, is something that we can all be proud of in the context of the public sector because it does a very good job in comparison to a lot of other insurance providers." Perhaps the WorkCover Authority needs to learn something from the Treasury managed funds. I have asked the Minister's office a question on comparisons between the two premiums.

**The Hon. Duncan Gay:** They should not go to Pacific Power or Integral Energy.

**The Hon. Dr PETER WONG:** You have not received a response yet? Are you allowed to ask more questions of the Minister?

**The Hon. Duncan Gay:** No.

**The Hon. Dr PETER WONG:** If the WorkCover scheme is in debt when other schemes are not, perhaps the Government must reform the WorkCover Authority.

**The Hon. Doug Moppett:** Sack the Government.

**The Hon. Dr PETER WONG:** Or the WorkCover Authority. It is just possible that is the real answer. It concerns me that the Government's legislative agenda with this bill may be run, to a certain extent, by the WorkCover Authority, which does not want too much attention paid to its operations. It would be a concern, but not surprising, that the WorkCover Authority could have significant influence due to its knowledge and experience, or lack of it. One has to wonder about that, when suddenly the deficit appears to blow-out and a crisis is created that drives the Parliament to rush through legislation without proper consideration. We must remember that the Government has had six years to fix it and it has not done so.

**The Hon. Doug Moppett:** It has made it worse.

**The Hon. Dr PETER WONG:** Much worse. All of this must lead any reasonable observer to conclude that the Government has not yet consulted properly with all the major players. It has not completed its package in anywhere near a final form for proper consideration by the Parliament. In fact, we are being forced to consider a half-completed bill, if there is such a thing.

**The Hon. Duncan Gay:** It is almost an oxymoron, but in this case it is probably a truism.

**The Hon. Dr PETER WONG:** The bill may not address the WorkCover deficit. Indeed, the WorkCover deficit may not be as serious as stated and could have been handled with much better methods. Surely, the bill should be deferred to give the Government and all players time to thrash it out further and bring properly considered legislation back to the Parliament for a proper and final consideration. It is a great shame that the Government is apparently not willing to take this course of action.

Perhaps the Government will be forced to admit that it and the Minister have grossly mishandled the situation. I certainly believe this to be the case and that Mr Fix It looks more like Mr Wreck It. Fortunately, or unfortunately, the skills needed to negotiate complex legislation with the broader community and interest groups are different to those required to get points of view accepted within the New South Wales Labor Party.

If members of the Labor Party want the party to agree to a particular policy or course of action and they happen to be factional leaders, they contact the other factional leaders to work out an agreement. Those who belong to the right-wing faction may not need to consult the left to get the required numbers. In this process it may be necessary to intimidate or buy off a few people. That is very effective, even if not pretty and it gives the Labor Party a thuggish image.

However, in handling a complex and sensitive issue such as workers compensation it is usually advisable, in a western democracy, to properly consult with all players and gain agreement as much as possible, otherwise one does not benefit from available expertise and views. Influential groups will be alienated and the final outcome will be inferior to what could have been achieved.

It appears to me that the Minister has used the party-factional approach he learned in a previous job. Instead of getting the best result through proper consultation, we have legislation that has not been properly

considered and has been forced through using party factional numbers and bringing influence to bear on members of the Legislative Council to try to gain numbers in the upper House. I imagine that factional pressure has also been brought to bear on the Labor Council.

Through this approach the Government and the Minister have achieved the rare distinction of simultaneously alienating the union movement and almost the entire legal and medical professions—and I am not too impressed either. These large and influential groups are not just annoyed; they do not respect the Government's resolve and point of view. My impression is that they are disgusted at the poor judgment of the Government and its arrogant and dictatorial approach.

This whole episode might damage the Labor Party's links with the union movement—and so it should. The unions have received more support on this issue so far from the crossbench than perhaps even from the Opposition. Over and over delegations have complained that there has not been real consultation by the Government. For example, in consultations between the Minister's office and the Bar Association there were two meetings. Information was provided at the last minute. The Bar Association was never fully briefed at the meetings and nothing came back from the discussions. In fact, the association was not given details of the proposed legislation on the basis that this could be made public. Horror of horrors that the public should become aware of what would be in the legislation!

After all the proposals and attempts at input the Bar Association felt that the latest bill was just a change of names from the earlier version of the bill but it did not restore workers rights, and changes to the appeals process are minimal. The association concluded that what the Government is proposing is vastly inferior to the present system. The workers of New South Wales will be unpleasantly surprised at their reduced rights. In fact, the changes may not even fix the deficit.

The Minister and the Government did eventually consult more widely with the union movement. As we are aware, that also was not done satisfactorily. Those who have followed the issue will recall that more than once the unions felt they had negotiated an agreement only to discover the Minister publicly distancing himself from the agreement. It would appear that the Minister was not negotiating in good faith. Otherwise a deal could have been struck that was not ambiguous and that the parties could publicly hold to.

The latest example was when the last version of the bill was released last week. The unions found that a proposed section that they had negotiated out of the legislation had been included. It has been confirmed that the Labor Council is still opposing the legislation in its current form. This would have been completely avoidable had the Minister negotiated with the unions to make significant amendments. Instead, it appears that the Government has simply tinkered around the edges, tried to pull a fast one on the unions and then toughed it out when the unions drew a line in the sand. This is not consultation; this is using the Government's power to try to force its will on the broader community, and against the interests of the community.

The Law Society wrote to the Minister some time ago with a proposal for an arbitration system outside the court system that it felt would keep 90 per cent of cases out of court. Surely, this is a proposal worth consideration and discussion to see whether it would work. The self-insurers thought it would work. They run schemes that are well managed and not in deficit. But perhaps the Minister had already decided on the solution he would put in place, because this proposal was not even considered.

The Minister actually denied that he had received the Law Society proposal even though the society could show that it had been provided to the Minister. In the end the Law Society feels that the Government's proposed system will have a greater cost of delivery as there is to be a three-tier system. The society is concerned that the provisions allowing the Minister to make regulations in respect of more than 60 sections will allow him to bypass proper scrutiny by the Parliament.

The society is concerned also that there has not been a proper review of the WorkCover Authority, which was roundly criticised in a report by the Council on the Cost and Quality of Government. Again, I am concerned about the role of the WorkCover Authority in running the agenda of legislative reform if the Minister is to rely on the authority to any extent for advice or information. Its previous performance has been seriously questioned. A letter dated 21 June 2001 from the Chairman of the Self-Insurers Association says in part:

The Self-Insurers Association represents in excess of 50 of the State's largest employer ... The Association does not support the amendments to the Workers Compensation Legislation in the present form ... The Association has previously approached the Premier and Mr Della Bosca regarding its views about this legislation and has asked for proper consultation to take place in respect to the process of amendments to this legislation. Unfortunately, there has been no consultation at all with the Association

nor it would seem with any stakeholders in the Scheme other than with the Labor Council and those it represents. The manner in which the Government is approaching the reform process is entirely non-consultative and unacceptable and the contents of the reforms are also unacceptable ...

The association also notes that the Government's Workers Compensation Council does not appear to be involved in the reform process. I have a virtual book of letters from organisations that are unhappy with the bill. The Royal Australian and New Zealand College of Psychiatrists condemned the workers compensation amendments as "outrageous". The Australian Medical Association quite recently wrote that it felt that there has not been sufficient time to consider the intended amendments. It said it was not appropriate for discussion to occur after the legislation has been passed. I would have thought that is only commonsense.

The AMA is concerned about the intended downgrading of the WorkCover Advisory Committee. Injury Australia, which represents injured workers, asked us to reject the Government amendments and said that the Minister has refused to consult with injured workers. The Australian Plaintiff Lawyers Association questioned that there is in fact a crisis in the WorkCover scheme and questioned the Government figures on the deficit, as many previous speakers have done. It noted that governments in New South Wales have previously cited a similar crisis to justify WorkCover changes. The association provided a detailed analysis.

I have similar correspondence from the Australian Society of Orthopaedic Surgeons and from a considerable number of individuals and organisations. Crossbenchers recently received the transcript of comments made by the arch radical and media personality, Alan Jones—not someone who usually defends unions. He described the legislation as a win for insurers and a disaster for workers. He said:

Quite simply, the worker has been done over in a remarkable exercise of bullying. To say he or she is better off is a blatant lie.

**The Hon. Ian Macdonald:** So the insurers are the big winners?

**The Hon. Dr PETER WONG:** Nobody is a big winner, but the workers are definitely the losers. Alan Jones has seen the light, but the Parliamentary Secretary—a left-winger—has not. Mr Jones points out that under the current system, lawyers for insurers get paid no matter what, while lawyers for workers get paid only if they win. I understand that the Government legislation does not address this issue, which is the cause of significant delays and costs in the system.

I thought it would be interesting to compare the views of an extreme right-winger with the Parliamentary Secretary's attitude. How much does he care about the workers? Mr Jones also quite rightly questioned the Government line that the lawyers are getting almost as much as workers. Does the Parliamentary Secretary still make that claim or has the Minister for Industrial Relations pulled another swiftie? The Minister is totally wrong. Mr Jones also questioned the deficit. Last year accident victims received \$1.8 billion while lawyers received \$317 million in legal costs. Mr Jones called for a sensible debate and urged everyone concerned not to mislead the public about WorkCover.

When all is said and done, my concerns about the legislation reflect those of most major stakeholders. These concerns must be addressed by legislation not regulation. An independent judicial body must make decisions about WorkCover disputes. The Deputy President of the Workers Compensation Commission must be independent and have secure tenure, because a short tenure would allow for his dismissal by the president of the commission. The president must also be a judge. The issue of United States-style guidelines is crucial. The American Medical Association's guidelines are intended to act as a guide only. Does the Parliamentary Secretary agree?

**The Hon. Ian Macdonald:** Yes.

**The Hon. Dr PETER WONG:** That is good. It is inappropriate to include such guidelines in the final determination of an injured workers entitlement. I am also concerned that such guidelines and formulae take no account of the impact on the worker outside his or her ability to work. It is as if workers have no life or worth outside the workplace.

**The Hon. Ian Macdonald:** Does it affect economic loss?

**The Hon. Dr PETER WONG:** Life is more than economic loss. The Parliamentary Secretary may not have a life outside work, but many workers do. It is as though workers are simply a cog in the wheel in the workplace and not citizens with full legal rights. The proposed thresholds that workers must reach before they

can go to common law are extremely high and, in most cases, will effectively deny them access to common law. I am also concerned about what is not in the bill. Most of this legislation will be pencilled in later by the Minister by way of regulation. How can anyone vote for so many blank spaces? It is like signing a blank cheque or a blank contract and allowing the Government to fill it in later. I do not want to be responsible for any disasters that the Government may cause later through its interesting form of consultation.

There is just a chance that the Government does not know what it is doing. I would like to see the evidence in the bill that the Government will get it right. I cannot support the bill in its current form, and I ask the Government to do the right thing and defer the bill until it can be properly considered, amended and all the blank spaces filled in.

*[Interruption]*

I am not the Opposition, therefore I will not ask the Government to resign.

**The Hon. Peter Primrose:** I don't think you should resign.

**The Hon. Dr PETER WONG:** I do not think the Government should resign. I do not listen to him. I repeat: I cannot support the legislation in its current form. I ask the Government to do the right thing and defer it until it can be properly considered, amended and all the blank spaces are filled in. Otherwise there appears to be a good argument to have the workers compensation scheme referred to an inquiry. The bill requires considerable amendment and I will consider the amendments that have been brought to my attention. Further, I hope the Government will begin to work with the unions and other stakeholders in good faith to put in place measures that will reduce the WorkCover deficit without attacking workers entitlements. Such measures have been raised publicly by organisations with relevant expertise and should be considered seriously for implementation. We know that these include an examination of the WorkCover Authority to see how its management of WorkCover can be improved.

The focus must be on better injury management. There must be better policing of compliance in the payment of premiums by employers as those employers who underpay premiums contribute to the deficit, which was mentioned by many previous speakers. Some time ago I wrote to a number of unions to gauge their position on the legislation because I wanted to be clear on their stance. I received many replies and I have no reason to believe that the position taken by the unions has changed with the Labor Council still opposing the legislation. I take this opportunity to thank the unions, employers, lawyers and many individuals who have written to me. I shall read a few of the letters at the conclusion to my concerns and their concerns on this issue. The letter from the Public Service Association of New South Wales stated:

Dear Dr. Wong,

I write to thank you for the support you recently showed outside the entry door to the Upper House when you spoke so strongly about a fair Workers' Compensation system in NSW.

In acknowledging your letter dated 23 inst., let me say that I am surprised on one hand and not surprised on the other hand, that you have "received indications from within the Government that unions and the Labor Party are broadly in support of the proposed legislation". There is no doubt about it that some people in Government are broadly in support. However a massive number of Government Back Benchers have very clearly shown their opposition. As to the Government telling you that some Unions are in support of the proposed legislation, all I can say is that I don't know of any unions that are. I spend a fair bit of my time talking to union leaders and I am yet to find one who will support the Government's proposed legislation.

The Labor Council in conjunction with its affiliates and with legal advice has put together a series of amendments which it proposes to place before the Government in the next few days. Once these amendments have been finalised and tidied up, I shall send a copy to you ...

The letter from the New South Wales Nurses Association in part stated:

Dear Dr. Wong

The information that Unions and the Labor Party (I presume you mean Labor Council)—

I think she is right—

are broadly in support of the proposed legislation is quite incorrect.

The union movement is strongly opposed to the Government's proposals. The Labor Council and its affiliates, including this Association, will be releasing an alternative proposal to that put forward by the Government later this week.



The letter from the Police Association of New South Wales stated in part:

Please be advised that the Police Association of NSW opposes the above Bill in its entirety. The Bill is archaic in the extreme and provides for total erosion of Workers Compensation Benefits in this State. There has been no consultation with this organisation or the Labor Council of NSW—

**The Hon. Duncan Gay:** That's not a left-wing union!

**The Hon. Dr PETER WONG:** No. It continued:

in respect to this Bill before the parliament. Accordingly we seek your assistance in having this Bill withdrawn immediately or your support for appropriate amendments which will ensure the rights of injured police officers are maintained.

As you appreciate, the nature of duties performed by police officers is extremely dangerous. We are concerned this Bill will remove any right for an injured police officer to be provided with benefits which will assist them to be rehabilitated after suffering a work related injury.

Areas of particular concern to this Association are the following:

- The abolition of the Workers Compensation Resolution Service. This Service will be replaced by a Claims Assessment Service. As has been demonstrated by the Motor Accidents Scheme, such Assessment Services do little to expedite claims, in fact claims take longer to be determined resulting in further damage to worker's injuries.

Under such a scheme workers would have no right to be heard, the claim would be determined by a Commissioner, behind closed doors. There will be no right of appeal (except on complex questions of law) against the decision of the Commissioner and is foreseeable that Workers will be severely disadvantaged by such a Scheme. This will remove a basic right to a fair hearing.

- The use of binding medical panels is opposed in its entirety. History has shown the use of such panels to be of little value, and in fact they cause additional distress to workers who are already suffering, often as a result of the negligence of their employer.
- The proposed method of assessment for permanent injury is, in our view, nothing short of horrendous. Whilst we are yet to see the proposed guidelines, we understand they will be based on an American model—

but not any more, is that right? The letter continued:

—and will provide for the removal of the Table of Disabilities. This, in conjunction with binding medical panels, is something that cannot be allowed to occur.

In addition to the removal of the Table of Disabilities comes the removal of common law rights. This is totally unacceptable. Our members perform duties, which a great many people could and never would be able to perform. We need our members to perform those duties to keep society safe. The Government insist upon these reforms, it is hard to imagine any person being willing to perform such dangerous duties.

The "retrospective" aspect of treating existing claims as new claims smacks of hypocrisy. This is completely unreasonable and will be opposed very strongly.

A letter from the National Union of Workers, New South Wales Branch, states:

Dear Dr. Wong,

We are in receipt of your correspondence of 24 April 2001 regarding the proposed Work Cover legislation. The National Union of Workers NSW Branch's position is that the introduction of the legislation by the government should not be supported.

A letter from the Shop, Distributive and Allied Employees Association states:

Dear Dr Wong,

The Shop, Distributive and Allied Employees' Association, New South Wales Branch is opposed to the proposed Workers' Compensation Legislation Amendment Bill 2001 in its current form. However, the SDA is prepared to support amendments that would overcome the concern that the bill, in its current form, would cut workers benefits and access to Common Law settlements.

In general the amendments would address the following key issues,

1. **The Dispute Resolution Scheme**
2. **Binding Medical Assessments**
3. **The Use of the American Medical Association Guidelines (4th Edition)**
4. **A 25% threshold for Common Law claims based on the AMA Guidelines.**

**The Hon. Ian Macdonald:** It's not in the bill.

**The Hon. Dr PETER WONG:** However, the Minister has not guaranteed that AMA guidelines will not be introduced.

**The Hon. Ian Macdonald:** It's not in the bill.

**The Hon. Dr PETER WONG:** Not in its current form. There are many blank spaces, and that is why we cannot trust you.

**The Hon. Ian Macdonald:** It is subject to an inquiry.

**The Hon. Dr Brian Pezzutti:** Peter Nagle said that: you can't trust them.

**The Hon. Greg Pearce:** It was put in by regulation last night.

**The Hon. Dr PETER WONG:** That is the point. The bill has so many blank spaces that the Minister could fill them in. The union does not trust the Government.

**The Hon. Ian Macdonald:** It's not in the bill.

**The Hon. Dr PETER WONG:** There are different ways to skin a cat. I have no doubt that the Minister will fill in this blank space with an alternative AMA schedule. The letter from SDA continues:

5.      **The introduction of an Expedited Assessment Service**
6.      **The exclusion of Psychological and Psychiatric injuries**

I could go on and on, but the Hon. Ian Macdonald will be happy to know that the letter I quote from the Australian Salaried Medical Officers' Federation will be the last:

Dear Dr Wong

Thank you for your letter of 24 April 2001 in regard to the NSW Government's proposed changes to Workers' Compensation arrangements. The Federation supports the NSW Labor Council's position in regard to the bill and proposed changes.

I note the executive summary from the Construction, Forestry, Mining and Energy Union from which the Hon. Ian Cohen quoted. I have many letters from members of the medical profession, lawyers and individuals. I could go on for another hour, but I prefer not to. I have read letters written to me by unions indicating their total frustration and anger at the Government's blatant ignorance and lack of consultation on an issue that is close to their heart. The legislation is an indication of how arrogant and out of touch this Government has become.

**Reverend the Hon. FRED NILE** [9.26 p.m.]: The Christian Democratic Party supports the Workers Compensation Legislation Amendment Bill (No 2). As honourable members know, the object of the bill is to amend the Workers Compensation Act 1987, the Workplace Injury Management and Workers Compensation Act 1998—the Workers Compensation Acts—and certain other Acts to provide a new dispute scheme and other matters. The Government, through the Minister for Industrial Relations, has foreshadowed that a series of reform bills will be introduced into this House. This bill is part of that process. This bill is not the beginning and end of all things; it is simply part of the process. When we pass this bill we will, almost certainly, have another bill in the next session, which, hopefully, will answer some of the questions raised in this debate.

There is no doubt that there has been a great deal of misinformation about the bill and the Government's intentions. Unfortunately, some of that misinformation has produced an overreaction in leaders and members of the union movement. It is hard to identify the source of that misinformation, but the legal profession has played a major part in presenting a biased case. The legal profession represented its own self-interest. Crossbenchers have been lobbied every week by various legal groups, whether it is the Law Society, Plaintiff Lawyers or the Bar Association. They have admitted that it might appear that they are coming from a point of self-interest, but they are adamant that their real concern is the injured worker. That must be balanced with the economic advantages they have received as a result of the current workers compensation legislation.

There is no doubt that the legal profession is concerned about the effects of this bill and later bills on their profit margin, their income. Even though the legal profession says it has injured workers at heart and not

their potential benefits, I draw the attention of honourable members to a quote that goes something like this: Me thinks they do protest too much. Other vested interest groups have been very critical of the bill. I know that there are genuine people in the medical profession, but they have also benefited from the current legislation. We must try to separate genuine weaknesses and genuine criticisms in the legislation from that which may be an overreaction from professions upon which it may impact.

Whenever the Government puts out a draft bill that affects so many groups of people it is shot at from all directions. If criticism is coming from all different areas, perhaps the Government has produced a fair solution that is in the centre. I do not know how many honourable members saw the television ads by Injuries Australia, according to the caption, which depicted dummies with broken arms, and bandages over their eyes and heads going along the production line into a rubbish heap of discarded broken bodies. The words of the advertisement are, "This is where the Labor Government is coming from." It had no impact on my position on the legislation. It seemed to be an unfair and emotive attack on the legislation. I do not know a great deal about Injuries Australia, but I presumed it was an organisation that represented injured workers. Perhaps after I have made these remarks Injuries Australia might let us know who paid for those very expensive TV ads. I would be very annoyed if they were paid for by Plaintiff Lawyers, the Bar Association or the Law Society.

**The Hon. Peter Breen:** Or by Labor Lawyers.

**Reverend the Hon. FRED NILE:** Or by Labor Lawyers. Was a vested interest group that has another agenda behind the image of injured workers? There is obviously a lot of tension within the union movement about this proposed legislation. I do not know a great deal about the union movement, but I know as much as any lay person. I surmise that there is some tension between the left wing and the right wing of the Labor Party, and probably some tension in respect of the new leadership of the Labor Council. Some times union leaders, to maintain their position, have to take a stronger line than they believe is justified. I think there is a bit of that going on in the Labor Council at the moment. And, as we saw more recently, there is tension between the left and right of the parliamentary Labor Party as well. All this makes this type of legislation unique.

I have focused on the Police Association because as I have said frequently, from the time I was first elected in 1981, I represent the minority groups in society. In the minds of some that would mean representing homosexuals and lesbians, but I mean the true minority groups. I mean police officers, customs officers, prison officers and fire brigade officers. I try to represent all the minority groups that are ignored. I have tried to work through this with the New South Wales Police Association as my source of information within the union movement. A briefing note dated 26 June from the Labor Council of New South Wales entitled "Workers Compensation Legislation Amendment Bill" states:

At the meeting held on Monday 25 June 2001, the Government advised they would read onto the Second Reading Speech in the Upper House confirmation of the following issues relating to the Workers Compensation Legislation Amendment Bill.

A number of matters were then listed. Some of those matters are not in the legislation, but that is the result of negotiations that have taken place between the presentation of the bill Mk I and the introduction of the bill Mk II. I can sense the Government's frustration over this matter. There have been some fairly strong criticisms of the first bill and of matters relating to guidelines, thresholds, formulas and so on. The Government has said it would remove a number of matters from the bill; put up expert panels that are genuinely representative of the various interest groups; report back and include other matters by way of regulations or as provisions in an amending bill.

[*Interruption*]

The Hon. Dr Peter Wong is the classic example. He has been attacking the Government for things that are not in the bill. And they are not in the bill because they have been removed as a result of our lobbying.

**The Hon. Dr Peter Wong:** If the bill has nothing in it, what kind of a bill is that?

**Reverend the Hon. FRED NILE:** The bill provides the machinery by which the Government can move. Provisions have been removed from the bill at our request. We asked that they be removed and the union asked that they be removed. Well, the Government removed them and now it is under attack for having done so. The Government cannot win.

**The Hon. Greg Pearce:** Tell us what they really intended. What is the package? Where are the thresholds?

**Reverend the Hon. FRED NILE:** The Government has done that.

**The Hon. Greg Pearce:** It has not done that at all. What are the thresholds? Where are the guidelines?

**Reverend the Hon. FRED NILE:** That is the whole point. They are now being developed at your request. The Government could have been dictatorial and proceeded like a steamroller, but it has not done that. The document from which I quoted was received from the New South Wales Police Association, but it relates to all the unions. It states further:

**Re: Guidelines, Thresholds and Formulas.**

The Government has agreed that the Guidelines for assessing permanent disability will not come into effect until the process for consultation and scrutiny has been completed. Further, an additional amendment will be moved to the legislation in the future (not this Session)—

that will occur after September:

—to ensure that thresholds and formulas will be placed in the Act and can't be changed by way of regulation. The Government also agreed to consult with the unions regarding any future amendments to thresholds and formulas. The Premier indicated he would provide correspondence to us confirming this agreement.

I understand that correspondence has been received from the Premier. It has been signed by the Premier; it bears his personal imprimatur. That is a major aspect. The Government has given its guarantee. The second matter, which was referred to by some members, relates to psychological injuries. In that regard the document states:

The Government has agreed they will not argue at the Common Law Inquiry against access to common law for psychological injuries. The Premier indicated he would provide correspondence to us confirming again this agreement.

The third matter related to the Workers Compensation Commission. The document states:

The Government have agreed the President of the Commission will be a Judge.

The bill will require an amendment in that regard and I assume that will be attended to. I continue:

The appointment of Deputy Presidents will be made by the Governor and subject to tenure.

The other matter related to the representation of workers before the commission. The document reads:

The Government confirmed the intent of the bill is to allow workers to be heard and represented (by a solicitor or agent) before the Commission. This would include oral and written submissions. The Minister indicated this clarification would form part of the second reading speech.

With regard to retrospectivity the document states:

The Government confirmed the intent of the bill is for retrospectivity to relate only to process, not benefits.

Some speakers in the debate have been confused about that aspect. It relates only to process, not to benefits. I read further:

In order to clarify this aspect of the bill the Minister agreed this would also form part of the second reading speech.

Finally, in regard to the monitoring role the document states:

The Government agreed the Unions will have a monitoring role in regard to the implementation of the bill. The monitoring roll will include the Workers Compensation Advisory Committee.

It is signed "John Robertson, Secretary". The next question that I asked was: Has the Government fulfilled the agreement in the second reading speech and in other matters? I have received a 100 per cent assurance that the unions accept that the Government has fulfilled the agreement.

**The Hon. Peter Breen:** John Robertson said on television tonight that he opposes the bill.

**Reverend the Hon. FRED NILE:** I just read to you the agreement. They asked for an agreement and they got an agreement. The agreement has been fulfilled. What more can the Government do? That is the position. I have not spoken to Mr Robertson but I have spoken to representatives of the New South Wales Police Association who have said they are satisfied that the undertaking given by the Government to the Labor Council has been upheld. That conversation took place today prior to my coming into the Chamber to speak. The honourable member may have missed my earlier remarks. I said there is tension within the Labor Council. Mr Robertson has to make sure he retains his position, so there is a bit of a phony war going on within the Labor Council.

[Interruption]

There are some political tensions there that the Greens would be well aware of.

**Ms Lee Rhiannon:** What about in your party, Fred?

**Reverend the Hon. FRED NILE:** Yes. We have learnt that as well, to our sorrow. I now wish to refer to one of the most mischievous aspects of the debate that is taking place outside the Parliament: the argument that there is no justification for the legislation; that everything is going well; that everything is great and there is no deficit. I got angry every time the lawyers entered into the debate. They were quite dogmatic that there was no deficit; that the Labor Party was putting up a smokescreen. The suggestion is that the Minister and the Premier are running a dishonest approach to this whole issue. It would be dishonest if the person sitting in an office somewhere working out the deficit was the Minister or the Premier. But the deficit has nothing to do with the Government; it has nothing to do with the Premier or with the Minister.

**The Hon. Dr Brian Pezzutti:** Yes it has. It is a Government-operated fund.

**Reverend the Hon. FRED NILE:** I am telling you that the figures relating to the deficit come from the Auditor-General's office; they do not come from the Premier's office. The Auditor-General's Report to Parliament 1997, Volume 3, page 485, makes the WorkCover deficit very clear. It states:

The total deficiency in reserves of the Scheme Statutory Funds as at 30 June 1997 is \$789m.

**The Hon. Rick Colless:** That was four years ago.

**Reverend the Hon. FRED NILE:** Yes, that is my point, it was four years ago. I have the documents and I will go through each year. Page 492 states:

During the year, the financial position of the Scheme again deteriorated significantly - total underwriting losses for the past four years was \$2.8 billion (1997 incurring a loss of \$953m), deficiency of income over expenditure for the past four years was \$1.6 billion and the deficit in reserves (after elimination of the prudential margin in 1995) is, as at 30 June 1997, \$789m.

Honourable members should compare this information with the HIH debacle. Remember that HIH was supposed to be going great and achieving a surplus yet on examination it was found to be billions of dollars in deficit. I am quoting the figures of the Auditor-General, but maybe the reality is even worse. I believe that the figures provided by the Auditor-General are conservative figures. Mr Harris has appeared before this House and he did not seem to be a friend of the Labor Government. He was independent and was prepared to criticise the Labor Government. His figures are a factual evaluation of the financial position of WorkCover. The plaintiff lawyers, in saying that there is no deficit, are attempting to put up a smokescreen to confuse members on the crossbenches so that they will not support the bill. The Auditor-General's Report to Parliament 1998, Volume 3, page 401, states:

The total deficiency in reserves of the Scheme Statutory Funds as at 30 June 1998 is \$1,674.5m, an increase of \$885.7m. Given the size of this deficiency it is difficult to believe the whole-of-Government financial statements fully meet the information needs of users.

The Auditor-General was expressing some concern about whether all the bad news was conveyed at that time. The report contains all the figures. The Auditor-General's Report to Parliament 1999, Volume 3, indicates that there was a slight decrease from the 1998 figure of \$1,674.5 million to \$1,636 million. The Auditor-General offered increased earnings from investments, and so on as an explanation for that decrease. The Auditor-General's Report to Parliament 2000, Volume 6, shows a deficit of \$1,638. Currently the deficit is \$2.18 billion and the forecast is that if that deficit continues it will increase dramatically year by year for the next five years. The Government is attempting to do something to arrest that in this session of Parliament.

I hope the plaintiff lawyers and others accept the Auditor-General's report and stop saying that the deficit is a myth and that it is does not exist. At present the total assets of the scheme are said to be \$6.88 billion with total estimated future liabilities of \$9.06 billion, and an increase of \$1.12 billion in the deficit of June 2000. The original Workers Compensation Legislation Amendment Bill was introduced into the Legislative Council two days after the deficit was announced and the measures contained in the bill were designed to save the WorkCover scheme up to \$300 million a year.

The Government stated the reasons why the deficit has grown in the way that it has. There has been an argument about the legal costs of the fund. I have just received the New South Wales Parliamentary Library

Research Service Briefing Paper No. 8/2001 entitled "The Future of the New South Wales Workers' Compensation Scheme", which is, I assume, up to date as of this week. Page 24 of the paper states:

WorkCover has produced a chart depicting the breakup of the costs of the scheme ...The chart shows that legal costs are a significant contributor. In the second reading speech of the original Bill, the Hon John Della Bosca, MLC noted that, as of 31 December 2000 legal costs accounted for \$422 million of the scheme's liabilities.

People have criticised that statement, saying that it is misleading. The Minister actually made it clear that this was compared to \$438 million paid as weekly benefits to injured workers and that the legal costs comprise two parts. The first part is for statutory no fault benefits that are projected to be \$344 million for 2001-02 claims. The second part is for common law cases. Obviously the latter are more difficult to estimate, because common law settlements are made as a lump sum, inclusive of legal costs. That is a great benefit for the lawyers, because it is difficult to ascertain their cut in a common law case, particularly if they say to a plaintiff, "We will run your case and you will not have to pay anything unless we win."

The lawyers assess the plaintiff's case, and if they believe they can win they take it on. But they charge an exorbitant amount for legal costs. WorkCover has provided an estimate of this component for legal costs of about \$78 million out of a projected \$488 million to be paid to injured workers at common law. If the new disputes resolution system helps to reduce those costs, that will be a benefit to the fund and, hopefully, to injured workers.

Some have said that if the costs cannot be reduced, we should let them keep rising and charge employers more. I suspect the threat from the Premier that the levy on employers may be increased got their attention. Obviously, if we cannot reduce costs we will have to work out how to increase the revenue, and the only way to increase revenue is through employers. The tragedy is that the premium costs to New South Wales employers are already among the highest of any employer premiums in Australia. In Victoria the average premium rate is 2.22 per cent compared to 2.94 per cent in New South Wales.

**The Hon. Greg Pearce:** It was only 1.95 per cent when this Government came to office.

**Reverend the Hon. FRED NILE:** I am not defending the inefficient operation of WorkCover or the Government's inefficient supervision or lack of action.

**The Hon. Dr Brian Pezzutti:** Yes you are.

**Reverend the Hon. FRED NILE:** I am only quoting facts, because they have been blurred. In Queensland the premium level is only 1.75 per cent.

**The Hon. Greg Pearce:** It was 1.95 per cent until this Government came in.

**Reverend the Hon. FRED NILE:** I am not defending the Government; I am just saying that those are the facts.

**The Hon. Dr Brian Pezzutti:** Yes, you are. You are giving it the right to keep on doing what it has been doing, inefficient as it is.

**Reverend the Hon. FRED NILE:** No. I believe that the Government is seeking to reform WorkCover, and with the appointment of key personnel we hope that will happen. However, the Government will have to take responsibility for that in its administration of WorkCover. I support the concerns raised by many honourable members, particularly members on the crossbenches, about the inefficiencies of WorkCover. I am amazed at the high salaries paid to WorkCover staff. There is a great expense in running WorkCover. I realise that it costs money to engage consultants; however, if I were in government I would bring in time and motion experts to study the structure of WorkCover and implement ways to make it more efficient and reduce its overheads. I support such objectives because the present cumbersome mechanism has grown like Topsy. I am not defending the Government. It is to blame for not trimming costs when it knew they were rising year by year.

I too have a folder filled with correspondence that I have received from people who are both for and against the proposed legislation. I shall not take up the time of the House reading them on to the record. If any honourable member wishes to read that correspondence, I will make it available. I shall, however, read one or two letters that I have received. John Cobb, President of the New South Wales Farmers Association, wrote:

Having considered the Bill, our Association believes that it will deliver a number of important reforms to the system by containing spiralling costs and delivering fairer levels of compensation ...

We urge you to support this legislation as an important first step in repairing the Workers Compensation system in NSW.

Australian Business Ltd stated that it was anxious that the bill should be passed, although it did not want compensation premiums to increase. It stated that any increase would affect the ability of businesses to operate efficiently and economically and would result in staff cutbacks. Another letter that I received stated:

New South Wales' major employer organisations today backed the State Government's workers' compensation reforms. The employers criticised lawyers for their campaign of misinformation and unions for taking industrial action—both groups are trying to stall the necessary effort to address the scheme's blow-out.

The document claimed that it was essential that the bill be passed and receive the support of the House. The names of the following organisations appear at the bottom of the document: Australian Building Services Association, Baking Industry Association, Australian Business Ltd, Australian Industry Group, Australian Nursing Homes and Extended Care Association, Australian Retailers Association, Furnishing Industry Association of Australia, Housing Industry Association, Motor Traders Association of New South Wales, New South Wales Dairy Farmers Association, New South Wales Farmers (Industrial) Association, Road Transport Association, Land and Nursery and Garden Industry Association, Printing Industries Association of Australia, Private Hospitals Association of New South Wales, State Chamber of Commerce and Timber and Building Materials Association.

That comprehensive list of employer groups in this State support the bill. The unions indicated that they were not happy with the legislation. The Government has removed some of their concerns by agreeing to further expert examination and the establishment of expert panels and to the legislation coming back before the Parliament to ensure that assurances have been met. On the other hand, employers are of the view that the Government is meeting their concerns. So there is a balance, leaving aside the rhetoric in the newspapers. The lawyers are still not happy but there is an obvious explanation for that. I have also received correspondence from the Australian Psychological Society Ltd, a group with which I sympathise. In a letter dated 24 June the society expressed concern that the amendment bill excludes the possibility of psychologists acting as medical assessors within the WorkCover system by limiting the make-up of the group of assessors only to medically qualified practitioners. In previous drafts the bill included psychologists. Obviously, in some cases the panel membership should include psychologists. Perhaps it is just an error that has slipped into the legislation, and I ask the Minister to consider moving an appropriate amendment in Committee to address the matter.

As a result of lobbying, the Government has removed some contentious matters from the bill. The problem remains as to how the processes will be monitored—whether they be dealt with by regulation or by way of an amending bill. The WorkCover Advisory Council has an important role to play in reviewing and monitoring the process. Also, the Government should retain the State Labor Advisory Council [SLAC]. I appreciate that the Premier has many responsibilities but it is important that he have face-to-face involvement with the union movement. A preliminary monitoring process of the legislation is necessary. Honourable members, including members on the crossbenches, have said that they do not entirely trust the Government. Therefore, I support the proposition that the proposed amendments and regulations should be monitored by the Parliament.

I urge the Government to give an assurance to that effect before the bill is passed. I accept that regulations can be drafted, gazetted and disallowed, but if the Government seeks genuine consultation, the regulations should be made available as draft regulations before they are gazetted. In that way they can be discussed and refined without the need to disallow any regulations, which might be detrimental for all parties. Regulations should be presented for discussion, consultation, feedback and agreement before they are gazetted.

The monitoring process by the Parliament should include an opportunity for interest groups and stakeholders to make submissions. If problems arise that the Government has not anticipated—such as with the dispute resolution procedure or complaints to unions from injured workers—lawyers, employers and others should have an opportunity to make a submission to the parliamentary monitoring group, which can then issue interim reports over the next 12 months or two years on the operation of WorkCover for the benefit of injured workers in this State.

**The Hon. PETER BREEN** [9.59 p.m.]: The latest incarnation of the Workers Compensation Legislation Amendment Bill contains several provisions that differ significantly from those of its predecessor. Most importantly, the Workers Compensation Legislation Amendment Bill 2001 (No 2) makes certain

references to regulations and proposed guidelines that replace the provisions spelt out in detail in earlier drafts of the legislation. For example, the method of calculating permanent impairment has been removed and replaced in new section 56 (2) with the following:

The amount of the permanent impairment compensation that is payable is to be calculated as prescribed by the regulations, on the basis of the degree of permanent impairment that results from the injury.

That does not mean anything. The questions "How much compensation does one receive for permanent impairment?" and "How long is a piece of string?" have the same answers. Similarly, the threshold for compensation for pain and suffering, which was clearly spelled out in earlier drafts of the bill, is now a threshold "greater than that prescribed by the regulations". Perhaps the worst example is the bill's reference to regulations that will transfer existing claims to new procedures. Reverend the Hon. Fred Nile referred to this provision, which appears on page 28 of the bill. It means that some bureaucrat in an obscure office somewhere will decide which existing claims will be transferred to the new scheme. This is delegated authority of Orwellian proportions, and workers were right to protest about it last week.

**The Hon. Dr Brian Pezzutti:** Are you sure about that?

**The Hon. PETER BREEN:** Absolutely.

**The Hon. Dr Brian Pezzutti:** So it is retrospective?

**The Hon. PETER BREEN:** Yes. Some bureaucrat will decide which existing claims will be transferred to the new scheme. Last week the unions rightly protested about provisions such as that, but this week the workers seem to have changed their position. Reverend the Hon. Fred Nile referred to statements made today by John Robertson. On the ABC news tonight John Robertson clearly said that his union opposes the bill. Through its various representatives, the Labor Council and the workers have effectively caved in to the Government: they won the battle of Parliament and lost the war.

This bill is no different from the one that brought Parliament to a standstill. It contains numerous black holes in the form of regulation and proposed guidelines. Instead of throwing some light on these black holes, the Labor Council now wants to pass the bill and trust the Government to do the right thing. As far as I am concerned, the Labor Council has disappeared into one of those black holes. I remind honourable members that the union movement represents only 25 per cent of workers in New South Wales. The other 75 per cent of workers have no voice except Parliament, a few commentators and some lawyers.

It will come as no surprise to honourable members to learn that I have mixed feelings about the position of lawyers in this bill. To the extent that they are willing to stand up for the rights of workers, lawyers have my full support in trying to protect their patch of turf. However, I part company with them over the financial drain that they appear to be putting on the workers compensation scheme—I think Reverend the Hon. Fred Nile cited the figures accurately. A relatively high per cent of workers' awards is lost to lawyers, particularly in relation to common law claims.

Reverend the Hon. Fred Nile said that some cases that were settled under common law included costs and pointed out that, in those circumstances, it is not possible to determine how much money is received by the workers and how much goes to the lawyers. The lawyers do as well as the workers on smaller claims. I will come to that issue in a moment. In any event, the situation is potentially unfair and must be addressed, as occurred with the motor accidents legislation.

I will not refer to the infamous pie chart and the misleading figures promoted by the Government about what lawyers cost the workers compensation scheme. However, I know that one figure is correct because I have checked and rechecked it. Common law damages and legal costs constitute approximately 25 per cent of workers total compensation payments. That is the problem the bill seeks to address. I have a radical solution to the combined problem of common law damages and legal costs, and I have canvassed it with the Minister. Why not remove common law damages from the workers compensation system altogether? I will put that submission to the Sheahan inquiry if I have the opportunity.

**The Hon. John Della Bosca:** You beauty.

**The Hon. PETER BREEN:** Will it be an open, public inquiry? Can I put submissions to it? Workers on a building site, for example, should not receive less compensation than a visitor to that site would receive if



he or she were injured as a result of an employer's negligence. Workers must be protected from negligent employers in exactly the same way as strangers or visitors to a workplace are protected by the common law. Under no circumstances can workers lose their common law entitlements. Sheahan went down that track as Attorney General in 1987, and it proved to be a dead-end.

We cannot strip people of their common law right to protection from negligence simply because they are workers. As Pauline Hanson would say—and as the Hon. David Oldfield used to say—that is unAustralian. My solution is to remove common law damages from the workers compensation scheme altogether. Let employers take out separate insurance cover to protect themselves from claims of negligence, just as they protect themselves from public liability claims. We would need a statutory authority to make a determination as to whether a worker—

**The Hon. Michael Egan:** That is not a solution to the problem. Employers would face a double whammy and be uncompetitive compared with employers in other States and countries.

**The Hon. PETER BREEN:** We do not know that because we do not know what proportion of an employer's premium is paid as a result of common law claims and as a result of the statutory scheme. I suggest that there should be some way of separating out the common law aspect. The point about having two separate schemes is that the statutory authority or some other body would need to do the sums and make the election. At present lawyers run parallel workers compensation and common law claims. That is ludicrous.

One advantage of separating common law from workers compensation is that it would stop that ridiculous practice. It is all well and good for the Government to require early election from lawyers under the present scheme, but lawyers often do not have the information they need to make an election. This is one area where a decision by a statutory authority would be extremely useful. That is a sensible solution.

The intention of workers compensation is not to return workers to the financial positions they were in prior to their accident. It is a pension scheme for workers injured in unfortunate and unavoidable circumstances. When an employer is negligent and fails to provide a safe system of work, workers' rights to full compensation must be preserved. Employers must be responsible in the same way as any other citizen who acts negligently.

All the problems with the existing workers compensation scheme can be attributed to this mixing of the two systems of compensation: a pension scheme and a common law damages regime in which workers receive full entitlements as opposed to pension payments. Something more must be said about the lawyers, who have received some pretty torrid treatment at the hands of Reverend the Hon. Fred Nile, for example.

**Reverend the Hon. Fred Nile:** The Hon. Malcolm Jones was better than me.

**The Hon. PETER BREEN:** I missed his contribution.

**Reverend the Hon. Fred Nile:** He was very analytical. He was slicing; I was the pacifist.

**The Hon. PETER BREEN:** His comments the other night about drug houses surprised me. It is quite unjust for lawyers to receive up to half of a worker's award. This often happens in small common law claims, not just in workers compensation cases. Honourable members will recall in the debate on the motor vehicle accidents legislation, for example, that I drew attention to the fact that a \$30,000 settlement for a motor vehicle accident injury would frequently result in half of that amount being lost in legal costs. By legal costs I mean the costs of medical reports, expert witnesses and so on, as well as the lawyer's fees.

Similarly, in other common law claims, such as professional negligence claims, the plaintiff can expect to lose about half of a \$30,000 verdict in legal costs. Last week I experienced this when I was contacted by a HomeFund borrower who successfully sued his solicitor for negligence and lost about half the settlement in legal costs. I checked the HomeFund borrower's bill and I ranted and rave about the injustice of spending a shilling to earn two bob, but in the end it cost \$15,000 to get a \$30,000 settlement. That is the reality and complexity of the legal system.

**The Hon. John Della Bosca:** Actually, simple civil litigation does not need to be this costly.

**The Hon. PETER BREEN:** I agree that the common law system does not need to be this costly. The statutory scheme is not this costly, but the common law aspect is very costly. The problem with the workers

compensation system is that the smaller common law claims of up to, say, \$30,000, raise exactly the same issues that were raised under the motor vehicle accidents legislation. As a member of the committee that oversees the implementation of the motor accidents scheme, I must say that the initial results appear to be effective. Small claims have been eliminated and although it is still early days for the Motor Accidents Authority, the figures are promising. The Minister must be commended on the effects of the motor accidents legislation on what was a serious problem.

I support this legislation to the extent that it intends, or hopes, to achieve the same purpose. The more of a claim that goes to the injured worker the better. Everyone should be a winner. The lawyers to whom I have spoken and who have briefed the crossbench all say, despite some of the negative remarks in this place, that they also contend and hope that workers can receive a greater share of payments by making the system less complicated.

The more complex question is whether I can support this bill in the same way I supported the motor vehicle accident legislation. The problems are similar to those addressed by the motor accidents scheme, but this bill has had a much more difficult birth. Because of the amount of material left to regulations and proposed guidelines it is difficult to say exactly what this bill says.

I quite like the Compensation Court. It was probably the best court in the State in terms of efficiency and use of modern technology. The Compensation Court dealt with approximately 19,000 cases per year over the past 10 years. On average, just 33 weeks will elapse between a matter going into the pending list and being heard. The Victorian Law Reform Committee has described the Compensation Court's management system as best practice. Although the court survives the birth of this bill, effectively it is pensioned off and the real work of determining the rights of workers will devolve to a new body known as the Workers Compensation Commission. In fact, this body is a reincarnation of a grandparent of the bill. I believe it was called the Workers Compensation Board.

**The Hon. John Della Bosca:** Commission.

**The Hon. PETER BREEN:** Originally it was the board. The board died in about 1926. It is worth recalling that the old Workers Compensation Board, the pre-1926 board, consisted of six lay commissioners. The Minister may or may not be aware of that. The original board had no lawyers, much like the proposal in this bill. From 1926 a judge sat as chairman of the commission, and from 1939 the commission became a court of record and its members had the same status and standing as District Court judges.

The commissioners successfully ran the scheme from 1939 to 1984 performing several functions including those of judges, administrators of compensation funds for families, and regulators of the insurance industry. The present Compensation Court was set up in 1984 and all members of the then existing commission were appointed as judges of the new court.

Honourable members may be interested to know that the Compensation Court was established in order to split the judicial and administrative functions of the commission. It seems odd to me that we are returning to a scheme that operated nearly 100 years ago. The harsh reality is that judicial officers make decisions differently to administrators. This is the other aspect of the bill that concerns me. Administrators make their decisions with an eye to the body that pays their salaries and reappoints them. On the other hand, judicial officers are independent; they cannot be sacked if you do not like their decisions, and they decide with an eye to the superior court looking over their shoulder.

From the point of view of injured workers, the judicial officer will guard and protect their rights to proper compensation rather than an administrator. The administrator will be answerable not to the workers but to the government of the day. If honourable members have any doubts about who is the piper and who plays the tune for the new commission, I draw their attention to section 367, headed "Objectives of the Commission", which clearly states that one of the objectives of the commission is to reduce administrative costs across the workers compensation system.

The court is independent and does not make decisions based on the administrative cost of the system. Whereas commissioners clearly will have two masters: the injured worker and the commission including the financial and administrative objectives of the system. I fail to understand how abolishing judicial officers will solve the problem of spiralling legal costs. The reason one needs a lawyer is to understand the law and to help deal with complex procedural matters. I am not convinced that the bill simplifies the law or attempts to tackle

the issue of complex procedures. This bill asks workers to jump in the river without actually finding out if they can swim. That may work according to the motor accidents model, but this bill is quite different to that legislation.

An injured motorist can knock on the door of the Motor Accidents Authority in George Street and will be literally led by the hand through the claims and recovery process. Motorists can engage the services of a lawyer if they wish or be dealt with by the staff of the authority through the claims advisory service. The Hon. Dr Peter Wong spoke about the Motor Accidents Authority in relation to remarks by Alan Jones. On radio yesterday Alan Jones and a lawyer named Maurie Stack completely misrepresented the Motor Accidents Authority and how it works.

**Reverend the Hon. Fred Nile:** That's not surprising for Alan Jones.

**The Hon. PETER BREEN:** Alan Jones is one person who seems to have got his head around this workers compensation issue. The previous day I heard him speaking with Ruth McColl of the Bar Association. They had an intelligent discussion and proposed some reasonable and sensible solutions. But yesterday he spoke to Maurie Stack and some things they said were just amazing.

For example, Alan Jones said to Maurie Stack, "So we've cut down the claimants from 45,000 to 2,000?" Maurie Stack said, "Yes, that's the truth." Alan Jones said, "So why is Bob Carr hell-bent on furthering the interests of insurance companies at the expense of the injured?" Maurie Stack replied, "I've no idea. I think John Della Bosca ought to be up there as the patron saint of insurance companies."

The figures they were quoting were completely wrong. For example, the Motor Accidents Authority has been operating for 18 months, and honourable members may be interested in a comparison between the last 18 months of the old scheme and the first 18 months of the new scheme. In the last 18 months of the old scheme 18,484 claims were received, 18 per cent of which were finalised. In the first 18 months of the new scheme 19,887 notifications were made, 27 per cent of which were finalised.

Figures show that a greater number of people have accessed compensation under the new scheme than under the old scheme, and their claims have been managed more quickly. The number of people claiming non-economic loss under the new scheme, which was such a thorny issue for the motor accidents system, is exactly the same as under the old scheme. The actuarial calculation is that 10 per cent of people will get through the gate and claim non-economic loss, and that is exactly how it is working. That is one figure that Maurie Stack and Alan Jones got right yesterday.

I refer to the Motor Accidents Authority and its enabling legislation for two reasons. First, because it demonstrates that legislation of the kind before the House can work if the necessary administrative structure is in place and if it is properly supervised by the Parliament. I note that the Opposition has given notice of a motion to monitor the implementation of the legislation. That is not a bad idea. It is what we are doing with the Motor Accidents Authority, and it is working very well in that context. I see no reason why it cannot work effectively in the context of the workers compensation legislation.

The second reason I mention the Motor Accidents Authority legislation is that it is frequently touted as the model for this bill, yet the Workers Compensation Legislation Amendment Bill (No 2) is a very different creature. It is much more different to what is being sold as an identical model. I have seen the unionists waving it around with yellow stickers on parts that are identical to the motor accidents legislation, but it is quite inappropriate to compare the two. Although one could offer support for the motor accidents legislation, that does not automatically mean that one would support this bill.

The WorkCover Authority is not a new organisation, for example, like the Motor Accidents Authority. Its enabling legislation, the bill we are currently debating, is a mutation of the judicial body. It is important to retain the judicial aspect in the new commission. That is the thrust of the amendments I hope to deal with in Committee.

The thrust of what I am suggesting is that the existing system of compensation for workers should be left in place until the new system is up and running. It is not appropriate to have big black holes in the bill, and to fill them up later by way of regulations. In that regard the existing legislation should remain in force.

The importance of judicial independence cannot be overstated. Decisions will be made according to objective principles and not the whims of the Government of the day. My foreshadowed amendments seek to

achieve judicial independence for members of the commission, and to preserve the existing structure until regulations and guidelines have been incorporated. Subject to those amendments I commend the bill to the House.

**The Hon. RICHARD JONES** [10.23 p.m.]: Not since 50,000 angry people gathered outside this Parliament years ago to protest the dismemberment of the Department of Education by Terry Metherell have we seen scenes such as we witnessed outside Parliament last Tuesday. The Metherell protesters were just about as angry as the unionists outside Parliament the other day. But where are they now? It has gone very quiet all of sudden. I thought they would be in the Chamber to protest about the bill, but no-one is here. It is quite extraordinary that they are not here protesting. Something has happened in the past week and a half.

The Labor Council has 18 people working full time to study the black holes that have appeared in the legislation because of the Labor Council. I have had representations from literally hundreds of people, many from ordinary people with injuries as well as a number of rural businesses, including the New South Wales Farmers Association. This is a very vexed issue. Ever since I have been in this Chamber, which is 13½ years, we have heard that workers compensation is a crippler of employment in rural New South Wales. As honourable members are aware, the cost of workers compensation in Queensland is far less than it is in New South Wales.

**The Hon. Dr Brian Pezzutti**: Why is that so?

**The Hon. RICHARD JONES**: Why is that so? I wonder why that is so. Is it possible to have a fair scheme with half the premium rate? Is it possible?

**The Hon. Dr Brian Pezzutti**: How do they do that?

**The Hon. RICHARD JONES**: If we have the same rate as Queensland we would be able to create tens of thousands of new jobs in New South Wales. We have not heard much about the actual cost of workers compensation, particularly in rural and regional New South Wales.

**The Hon. Dr Brian Pezzutti**: What about payroll tax?

**The Hon. RICHARD JONES**: There is no doubt that we have an increasing deficit. Some people have said that the deficit is a fantasy, but we have a \$2.18 million deficit, which equates to a \$300 debt for every single person in New South Wales. No responsible government could allow that deficit to continue indefinitely. No government could allow every single person in New South Wales to have a debt of \$300, and growing. It is important that we consider the debt and employment, particularly in rural and regional New South Wales.

For years we have heard endless complaints from the country about the cost of workers compensation and payroll tax, as the Hon. Dr Brian Pezzutti rightly said, although it is gradually coming down. In the last week and a half the Labor Council had a great big victory, which will be evident in the next few months. John Robertson has done an excellent job as the new head of the Labor Council.

The Labor Council has done a lot of work, and achieved a great big victory. That is why 100,000 workers are not in the streets today. The Labor Council has been fairly muted in its press releases about its continued opposition to the legislation. It had a great victory in the negotiation process as a result of the muscle it used and the support of the Greens in particular and other members of this House.

Ms Lee Rhiannon has been very strong in her support for the unions. I imagine that the unions will support her the next time she comes up for election. She has been the number one member of Parliament who has supported the unions. Others have been out there with them as well, but she has been the most vocal and supportive of all the members of this House.

The workers compensation bill is perhaps one of the most contentious we have ever debated in this place, judging by the amount of controversy it has generated throughout the Parliament. It was extraordinary to see the unions picketing or blockading, whichever term one prefers to use, the Parliament, and then allowing their Liberal comrades through and asking them to delay the legislation for one week, which they promised to do, as did I.

The legislation was delayed and we have now had plenty of time to consider it and the amendments. When the bill passes through its second reading stage, as the unions undoubtedly recognise it will, a number of

amendments will be proposed. I imagine that a number of them will be agreed to, which, presumably, will please the Labor Council even more. A number of opponents of the bill have claimed consistently that it was introduced without consultation. That may have been so. The Bar Association said:

The Government continues to act precipitately in this important area of people's rights. Originally failing to consult at all, the Government has not held the meetings of all stakeholders it promised. Only bad outcomes can result from rushing amendments through Parliament. Providing bills hours or days beforehand prevents any useful discussion.

The Government has announced an inquiry into the common law aspect of the scheme, which is one of the matters the Labor Council negotiated with the Government. This will certainly be helpful in generating information about costs in that part of the scheme. However, the Bar Association concluded:

An inquiry into one aspect alone of the workers compensation scheme is flawed. The real cost of workers compensation in New South Wales cannot be established without an investigation of the whole scheme.

No doubt there will be an ongoing committee inquiry—whether it be by select committee or Reverend the Hon. Fred Nile's committee—during the next three months. I am sure that will happen, and that the bill will pass through this Chamber in one form or another. The Law Society says that the 25 per cent threshold will mean that common law will effectively be annihilated. Well, that remains to be seen, does it not? The Law Society said:

No doubt the Government has an intention of making common law available only if an injury is not less than 25 per cent whole of body impairment as they have publicly stated.

This section envisages the removal of a court's discretion to determine whether or not a worker has sustained a serious injury ... with binding Medical Panels. This is a most serious threat and must not be underestimated. It is clear that the Government seeks to abolish common law entitlements for injured workers in the same manner they did for injured motorists pursuant to the Motor Accidents Act 1999.

On the other hand, the Australian Nursing Homes and Extended Care Association, and the Aged Services Association have offered their support for this legislation, saying they believe the implementation of a sustainable and equitable workers compensation system is necessary. They referred specifically to the increasing cost of premiums as follows:

The impact of these costs on aged care is particularly difficult. The majority of the funds available to aged care providers come from capped government funding and contributions from older people themselves. Increasing workers compensation costs impact directly on staffing levels with a consequential reduction in the care services available to older people.

Heaven knows, the population of New South Wales is ageing at a rapid rate—especially those of us who have to be in this Chamber night after night! Balancing the needs of employers and employees in a framework that offers protection to workers is an issue that the Chairman of Injuries Australia addressed in an open letter to the Premier. He said:

You claim that these changes will be to the benefit of the injured workers on this State ... We have listened to these claims too many times since the WorkCover Authority was established in 1987, only to suffer even greater indignities once the changes take effect.

The idea of trying to run your own claim while trying to come to grips with an injury and all the other problems [such as the breakdown of the family unit, stress, claims for compensation denied and benefits and treatment stopping] is very frightening to injured workers.

Lawyers are the only ones qualified to ensure that injured workers understand the scheme as well as their rights and obligations. The idea of representing oneself against people who do it for a living [insurance staff trained to represent the scheme and usually involved on a daily basis] is daunting.

With regard to psychological injury, the Australian Psychological Society raised concerns in relation to the proposed 10 per cent threshold, and said:

We have some serious concerns about the effect the legislation may have on the rights of individuals to receive proper consultation. The proposed 10 per cent threshold for psychological injury or impairment does not allow scientifically or morally defensible judgments to be made regarding an individual's entitlement to compensation under the law, and should be abandoned altogether.

The amendment bill excludes the possibility of psychologists acting as medical assessors.

We hope that will be adjusted later. Reforming the workers compensation system is a concept that has received wide-ranging support. I think we all agree it needs reforming in one way or another for a multitude of reasons. It is clearly not a matter of leaving the system as it is. The method of reform that is currently being pursued, however, has been accused of being severe on certain stakeholders, particularly workers who are inadequately

protected by their employers or who, by nature of their very profession, are subject to numerous and ongoing physical dangers. However, one group of workers supporting this legislation, who by the nature of the labour involved often face many physical dangers, are farmers. The New South Wales Farmers Association stated:

Our association believes that it will deliver a number of important reforms to the system by containing spiralling costs and delivering fairer levels of compensation.

Farmers in New South Wales are already paying up to four times the premiums of their counterparts in Victoria and Queensland. To increase their contribution even more would simply force most of them to reduce the size of their work force. This would only add to the growing problem of regional unemployment.

I received some information today from a woman who was representing organic growers. She is a sheep farmer. She said she has to employ contract labour because she simply cannot afford the workers compensation premiums involved in employing her own staff. There is a problem even with employing contractors because some of those who have been established for quite some time pay higher premiums and therefore charge more. The ones who do not have those costs as a result of a claim are cheaper but not so experienced. She has to decide which contractors to employ. Other groups have expressed their approval of the legislation, saying that the vitality of their industries are dependent on the reforms being passed. If they are not, it is argued, many will be at a competitive disadvantage to their counterparts in other States. The Furnishing Industry Association of Australia has said that leaving the system as it is would have a far worse impact for employers and employees:

... major concern over the escalating costs associated with workers compensation and the major effect it has on our members. The reforms will go towards eliminating the very high costs of legal fees associated with workers compensation claims. This will ensure that the injured worker is compensated appropriately without vast sums of that compensation going to the lawyers. The add-on effect could be relief for small businesses who are already struggling with the current costs of premiums.

I wonder how many jobs would be saved through these reforms. I wonder how many jobs will be created as a result of these reforms. Perhaps the Treasurer could do some kind of calculation. By contrast, the Labor Council—perhaps the bill's most vocal opponents until recently—claims that the bill would not be beneficial to injured workers. Even as late as today, the union movement was still finalising its position in regard to the legislation. Many in the movement were still strongly opposed to it. However, yesterday the Labor Council's John Robertson appeared to back down, and stated that they will not be lobbying against the continuation of this bill; that they would "move on". I think John Robertson realises that he has had a very great victory, although he has not trumpeted it as such.

The Labor Council has proved that unions still have a very important role to play in protecting the workers of this and other States. The Labor Council said that the agreement reached with the Government on 21 May had not been honoured in certain key areas. They include the numerous references to WorkCover guidelines which may be amended or revoked at will, and which seem to contain within them the same formulae as appeared in the Government's original bill. The council said the Government reneged on the provision for a common law inquiry; that the provision not to be altered until the conclusion of the inquiry. With regard to the dispute resolution process, the unions were not confident in the independence of the commission, which may be headed by a principal arbitrator who is not a judge or by someone who could even be the head of WorkCover.

The appeal system was also under question in terms of an injured person's ability to have legal representation. The unions claimed the bill would not guarantee workers open and transparent hearings. Most recent reports, including one yesterday, make it quite clear that the union movement has re-assessed its opposition and, whilst it does not in fact support the legislation, it is not altogether opposed to its passage. The union movement is aware of the legislation and, if it were so opposed to it, would be right here in this Chamber opposing it on this very evening. John Robertson said that it is time to address a range of other issues that are still outstanding, such as injury management, employer non-compliance with insurance premiums, occupational health and safety, injury management and return to work issues.

With all the development since the introduction of this legislation—protests, blockades, negotiations, renegotiations, facts and figures—I hope the employers who have faced difficulties in the past will have their financial burdens lifted a little. More importantly, I hope the workers will be protected in their workplaces; that employers will correctly and honestly state wages and classification and not avoid premiums; and that, if workers are injured, they will be entitled to fair and speedy wage benefit payments, proper medical treatment and rehabilitation based on an open and well-informed medical assessment. If grounds for appeal are valid, I hope that adequate provisions will apply to ensure that justice is done. I would finally point out that what we in the community should be doing most of all is ensuring that our workers have safe conditions in which to work. Our number one priority should be looking after them in their workplaces and making sure they do not have to make claims in the first place.

**The Hon. CHARLIE LYNN** [10.39 p.m.]: In this debate on workers compensation we are striving to achieve a system that will protect the rights of workers who are injured at work, reduce the unacceptably high levels of premiums paid by business owners, reduce the size of the deficit that has developed under the policies of the Labor Government, and reduce the ability of unscrupulous business owners and employees to rot the system. If we get the balance right, the State of New South Wales will continue to prosper as the engine room of the Australian economy. If we get it wrong our triple-A credit rating will be at risk and there will be a flight of business to other States. In debating such an important issue it is essential that we have all the facts at hand—the good, the bad and the ugly. It is also important that we have time to consult with all parties affected by the bill—union and non-union employees, business owners, business associations, public sector associations, the legal profession and the insurance industry.

**Debate adjourned on motion by the Hon. Charlie Lynn.**

## ADJOURNMENT

**The Hon. MICHAEL EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.40 p.m.]: I move:

That this House do now adjourn.

## WESTERN REGIONAL ASSESSMENT

**The Hon. RICHARD JONES** [10.40 p.m.]: The western regional assessment commenced in the South Brigalow Bioregion in November 1999. Stage one of the assessment was rushed through to determine whether there was enough ironbark timber in Goonoo and Pilliga State forests to supply a proposed charcoal plant. These forests are the largest remnants of temperate woodland species in Australia. A successful public campaign to save these forests resulted in the Government announcing that no timber would be logged from Pilliga or Goonoo for charcoal production. The assessment has now entered into stage two—a two-year process with a budget of \$4 million. The timber industry has been given security of supply for current production rates for five years and the largest cypress mill was given a 10-year contract during the stage one process. However, no interim conservation reserves have been nominated while the two-year assessment is taking place, unlike the coastal regional forest assessments.

A logging moratorium has been negotiated between State Forests and the National Parks and Wildlife Service to protect the high conservation value areas identified in the stage one assessment. All of Goonoo State Forest has been identified as high conservation value because of the number of significant species breeding in the forest. No logging moratorium has been placed on Goonoo. In the Pilliga, 27 compartments identified as high conservation value have been left out of the logging moratorium. The State Forests plan of operations is targeting these 27 compartments in the first two years of the four-year operations plan. If the timber industry is sustainable these compartments should be able to be protected. The vertebrate fauna survey project being funded by the Resource and Conservation Assessment Council [RACAC] in stage two of the assessment has had its budget cut from \$718,047 to \$478,000.

Yet this survey is to be conducted across all land tenures in the bioregion. By comparison, each of the southern, upper north-east and lower north-east regional assessments had between \$3 million and \$4 million allocated for environmental and heritage projects. The Brigalow Belt South has had 75 per cent of vegetation cleared and only 2.5 per cent protected in conservation reserves. The assessment being conducted by RACAC does not have a budget or timeframe indicative of the scale of work needed. Conservation groups in western New South Wales have recently joined together with State and national peak environment groups to form the Western Conservation Alliance. People in western New South Wales are very concerned about the future of western woodland ecological communities because the western regional assessment has not articulated the need to establish a comprehensive, adequate and representative reserve system in western New South Wales, identified conservation criteria or targets, nominated interim reserves to protect high conservation value areas on public land, or indicated that industry restructure funding will be available.

The Western Conservation Alliance believes that the timber industry in Brigalow Belt South is ecologically unsustainable, because of the level of past logging and clearing in the bioregion, the continuing degradation of land through salinity and poor management practices, and the number of nationally endangered species present in the remnant woodlands. The Carr Government is paying lip service to ecologically sustainable development principles, biodiversity strategies and threatened species legislation in the way it is conducting the western region assessment. The people of western New South Wales are calling for immediate protection for all

identified high conservation value areas in Pilliga and Goonoo State forests; immediate identification of conservation criteria and targets; a longer time frame to conduct adequate environmental survey work; and a budget which is indicative of the scale of project work needed, including an industry restructure package, to ensure that the western regional assessment provides adequate protection for important environmental assets and the long-term viability of land use.

### HEALTH DEPARTMENT ASSET SALES

**The Hon. Dr BRIAN PEZZUTTI** [10.45 p.m.]: I bring to the attention of honourable members a fire sale of assets belonging to the New South Wales Department of Health which, hopefully, will turn up in next year's budget papers—they are not in this year's budget papers. On Monday evening in the other place, Mr Hickey, the honourable member for Cessnock, drew attention to the sad tale of the Hunter Area Health Service being forced, because of recent ongoing shortfalls, to call for tenders for the sale of the Allandale Aged Care Facility buildings. Those important buildings house 336 residents and a new purpose-built high-care unit built at a cost of \$20 million—paid for by the Hunter Area Health Service, through New South Wales Health—is able to house 216 residents with high living needs. The new complex will have 96 beds for residents with dementia. According to Mr Hickey, it is hoped that the facility will be sold to a non-profit organisation. Mr Hickey said:

The community expects that the facility should retain 336 beds. This desire is primarily driven by the need to retain employment opportunities in the Cessnock area.

Unfortunately, that desire is not driven by the needs of aged people who need care. Mr Hickey also said:

Hunter Health can no longer continue to subsidise Allandale, at the expense of other health services that also have expanding needs.

This expensive piece of real estate, which is quite close to the airport, will be sold off. I hope the site will be used for this ambitious scheme to refurbish the capital needs of the Hunter Area Health Service. That reminds me of the much-argued sell-off of land at Gladesville and, of course, the crowning king of it all, the big turnaround of the sale of land at Prince Henry Hospital. The Premier, the local member, promised everyone that that land would never be sold, would never be alienated. In 1996 he said:

I give an unequivocal guarantee that the Spinal Care Unit at Prince Henry will not be closed. It will stay at Prince Henry.

I am reminded of the speech given by Mr Peter Nagle in the other House on Monday. He said:

I say to the new members of the Labor Party, "Don't be fooled by people who come to you with promises that you will get everything you want," ... "You will never get a thing out of people who promise you the world, because they will give you nothing."

Of course, he was referring to the Hon. Bob Carr. In a recent press release Bob Carr said that he will sell off the site to LandCom. In the Premier's letter to the *Southern Courier* he said that he will keep 80 per cent of the site in public ownership, retain remnant bushland, retain 19 heritage buildings, transform ugly concrete car parks into gardens, make all streets publicly accessible and create 250 new aged-care units. He said the same thing about Gladesville. That will go with the new sale of a wonderful institution that belonged to the Central Sydney Area Health Service: the Rachel Forster Hospital. The heritage buildings at that site—a hospital built for women, operated by women—will also be sold.

Rachel Forster Hospital was set up because women doctors could not get jobs. Women wanted women doctors to look after them, but women doctors could not get jobs, so Rachel Foster was built. Prior to the sale the Premier will make the same promises of keeping 80 per cent of the site for public use, transforming the ugly concrete car park into gardens and retaining all the heritage buildings. At the end of the day the site will be sold for lucre and will be transformed. It was meant to be retained by Health for health redevelopment. The Government does not say where it will get the money from, but this is being done by selling off prime real estate. This is a bit like the story about the schools. This is a fire sale by New South Wales Health to try to fund the Government's capital works program. [*Time expired.*]

### DEATH OF Mr ROBERT KLIPPEL

**The Hon. AMANDA FAZIO** [10.50 p.m.]: I wish to comment on the death of Robert Klippel, who has rightfully been acclaimed as one of this country's greatest sculptors. He died on his eighty-first birthday, on 19 June 2001. Robert Klippel has been acclaimed by the internationally renowned art critic Robert Hughes as an outstanding figure of Australian art and one of the few sculptors worthy of international attention. I can recall being inspired by one of his small wooden sculptures when I visited the "Surrealist-Revolution by Night Exhibition" in Canberra about eight years ago.



Amongst artworks by some of the world's leading surrealists artists including Salvador Dali, Man Ray et cetera, this detailed, finely crafted and colourful sculpture stood out. When I saw a photograph of this sculpture in the *Sydney Morning Herald* in an article detailing Robert Klippel's contribution to Australian art, I was saddened at the loss of such a wonderful talent. This piece was one completed by Robert Klippel in London and Paris in the 1940s—and his work from this period is acknowledged to be among the finest products of post-war European surrealism. Edmond Capon, Director of the Art Gallery of New South Wales, said of Robert Klippel:

He was very much a part of the history of Australian art ... he is not going to be dislodged. He was a unique sculptor ... his work on one hand meticulous, on the other abstract and vivid. It was a marvellous combination of opposites.

Robert Klippel was born in Potts Point in 1920, the son of a successful businessman. He was educated at Cranbrook and Sydney Grammar schools. He studied art at East Sydney Technical College. He came to sculpture through a traditional craft, ship modelling, and originally worked for the Royal Australian Navy as a model maker. The skills he developed model making are evident in much of his sculptures from the 1940s. His fellow artist James Gleeson said:

He came to art late, he knew nothing about it, he made model ships for the Navy, then got into sculpture ... I certainly think this [lack of formal training] explains the quality of his work.

James Gleeson was a long-time friend of Robert Klippel, whom he first met in London in 1948 where the two shared their first show at the London Gallery with Lucian Freud. The work of Robert Klippel and his contemporaries, including John Olsen, John Passmore, William Rose, Eric Smith and James Gleeson, has been very influential on other Australian artists, especially in respect of abstract art. "Direction 1", an exhibition held at the Macquarie Galleries in Sydney in 1956, where the work of Robert Klippel and his contemporaries was exhibited, has been recognised as contributing to the development of abstraction. Throughout the 1950s Australian art had been invigorated by increasing exposure to international art, particularly European, through the influx of migrant artists from Europe, by Australian artists like Robert Klippel travelling to Europe and returning home and the increase in exhibitions of important European art.

During the late 1950s Robert Klippel travelled to America where he taught at the Minnesota School of Arts and worked in New York where his contemporaries included the giants of New York abstract impressionism. On his return to Australia, he settled in Birchgrove and established his studio where he continued to sculpt until his death. Robert Klippel worked with many media, including wood, metal, plastics, machinery parts, oils, watercolours and paper and used the techniques of carving, casting, assemblage, painting and collage. He created a vast body of work, ranging from small wooden pieces to towering wooden and metal sculptures.

The significance of his contribution to Australian art has been recognised by his inclusion in many major recent exhibitions such as: Federation—Australian Art and Society 1901-2001 at the Australian National Gallery; Antipodeans—Challenge and Response in Australian Art 1955-1965 at the Australian National Gallery; and Australian Icons—A Pilgrimage for Lovers of Australian Art at the Art Gallery of New South Wales as part of the Olympic Arts Festival. It should be noted that at the time of the Australian Icons Exhibition, Robert Klippel was one of only three living artists included in that exhibition.

At the time of his death, Robert Klippel had an exhibition of 30 metal sculptures, which he had completed this year, at the Watters Gallery in Sydney and the Art Gallery of New South Wales is planning for a major retrospective of his sculpture and collages. I urge all honourable members to take the opportunity to visit the retrospective of Robert Klippel's works when it is staged at the Art Gallery of New South Wales. If they are not already familiar with his work, I am sure that they will be equally impressed by the diverse range of work of one of this country's finest sculptors and will recognise the significance of the loss of Robert Klippel to the Australian arts community. [*Time expired.*]

### RYDE ELECTORATE HOSPITAL SERVICES

**The Hon. GREG PEARCE** [10.55 p.m.]: I voice the concerns of the people of Ryde at the uncertainties surrounding the emergency services in Ryde. In particular, I call upon the Government to give a commitment that the emergency department at Ryde Hospital will not be closed. In April the Opposition received a copy of the Government's emergency department service plan. The shadow Minister for Health, Jillian Skinner, MP, said of the document:

It clearly shows the Minister is considering closing the Emergency Departments of hospitals which see fewer than 20,000 patients a year, are no further than 20 kilometres or 30 minutes by car from another Emergency Department, or serve a population base of less than 200,000 people.

On 6 June the Minister for Health, Craig Knowles, adopted the metropolitan hospital plan, which included precisely these criteria. But the adoption of this plan came only a few weeks after he had vehemently denied it would happen. This is yet another example of a Government that is worryingly arrogant and out of touch with the people of this State. The strong implication from the metropolitan hospital plan is that only one emergency department from Manly, Mona Vale and Ryde hospitals is to be kept open at most, as all are within a 20-kilometre radius of Royal North Shore Hospital and are either below, or are dangerously close to falling below, the minimum 20,000 attendances. The future for the emergency services in Sydney's north looks truly grim.

In 1994 the Premier, when Leader of the Opposition, in a campaign speech stated that he wanted to "immediately upgrade emergency and accident units to improve services and reduce waiting times". Far from doing that, this Government obviously wants to save a few more dollars by playing a perverse game of chance with people's health and wellbeing. But what cost saving is worth the price of a human life? For is that not the fundamental issue at stake here? This comes on top of the Government proposal that the two ambulances that operate from Ryde ambulance station be cut back to one between the hours of 11.00 p.m. and 7.00 a.m. Saving people's lives is no place for risk taking of this sort. And it is certainly no place for penny-pinching.

I would like to refer to the public transport system to the old Walker village for senior citizens in Ryde Hospital. This village, one of the most important in northern Sydney, used to have direct private bus routes taking visiting relatives or elderly people who need treatment to the hospital. The service has now been replaced by a government bus, which forces people who are often ill or frail to get off the bus at Eastwood and wait for 20 minutes, braving the elements, before they are able to get onto another bus going to the hospital. The Government's aim should be to make public transport more accessible and user friendly to members of the community. Yet again, it appears that whenever the Government does anything even remotely connected with Ryde Hospital, it fails the people of Ryde, along with the people of New South Wales.

On a personal note, I would like to thank the Hon. Jan Burnswoods for her apology to me yesterday regarding my previous speech on the declining standards of health care in Ryde. It is both accepted and appreciated. Madam President, it is a pleasure to see you in the chair tonight.

#### **WARRINGAH COUNCILLORS JOHN CAPUTO AND DARREN JONES**

**Ms LEE RHIANNON** [10.59 p.m.]: I inform the House of more disturbing goings-on at Warringah Council. In February, council's irregular handling of two development applications in which Councillor John Caputo and Councillor Darren Jones have respective pecuniary interests prompted the council to take drastic action. It prompted the council to resolve to call upon the Minister for Local Government to initiate an investigation into itself under section 430 of the Local Government Act—an amazing situation in which a council calls for an inquiry into itself! This startling scenario underlines how much concern there is in Warringah over the abuses of power and self-serving actions of some councillors.

On 7 September 1998 the council was informed by the State Government that it would soon receive exemption from dual occupancy State environmental planning policy 53 development. Councillor Caputo, a real estate agent and developer, knowing the exemption was soon to come into effect, submitted several dual occupancy applications on 10 September 1998 for properties at 20 Ryrie Avenue, 20A Ryrie Avenue, 20B Ryrie Avenue, Cromer, Lot 37 Dalpura Avenue and Lot 40 Dalpura Avenue, Cromer, and one property at 23 Lady Penryhn Drive, Beacon Hill.

On 9 October 1998 the council received formal notification that it had been exempted, thereby allowing its local environment plan to prohibit dual occupancy developments. Later that same day, Councillor Caputo's brother Mark, who is also a developer, lodged a dual occupancy application for his property at 18 Princess Mary Street, Beacon Hill. Not only has the Caputo family benefited in this way from inside information but in Councillor Caputo's hurry to evade the pending deadlines he submitted applications that were severely deficient and incomplete.

The council wrote to Councillor Caputo on 24 September 1998 informing him of the many deficiencies in his applications and stated that unless the required additional information was submitted within 21 days, his applications would be assessed on the information held by council at the time of lodgement. Had the council's 21-day procedure been adhered to, Councillor Caputo's applications would certainly have been refused owing to the deficiencies. A refusal, in view of the prohibition on dual occupancy development having come into effect, would have resulted in an enormous financial loss for Councillor Caputo. The council was not prepared to go against the financial interests of its then mayor. Council failed to adhere to its own 21-day procedure. It gave Councillor Caputo two and a half years to provide information.

Some information was finally submitted on 12 October 2000, but the application for Ryrie Avenue properties was still deficient and incomplete. Despite that, Councillor Caputo's faction on Warringah Council approved the application on account of the casting vote of Mayor Peter Moxham. The council even granted Councillor Caputo a full year to furnish information for the still-incomplete development application. This treatment is very different from the 21 days that is given to the average applicant. Councillor Darren Jones' company, Songkal, has also been given preferential treatment and also has been given extra time to provide information for a development application, even though the extension contravened a council resolution.

Days after the elected council resolved that Songkal not be granted further extensions, the general manager, Denis Smith, authorised an extension. Mr Smith had also appointed a different independent assessment firm to assess the application instead of the original firm that had recommended refusal of the development. When Warringah councillors learnt on 6 March 2001 of Mr Smith's action, and having in mind threats of legal action made by Songkal, Greens Councillor Peter Forrest proposed that the council seek legal advice on how it could protect itself from legal action by Songkal. Councillor Jones voted against the motion, despite his pecuniary interest, and the motion was defeated five votes to four.

At the same meeting, Councillors Jones and Caputo also voted against the motion requiring a proper report into the irregularities surrounding the processing of their development applications and into the timing of the application by Councillor Caputo's brother. There are obviously serious flaws in the pecuniary interest provisions of the Local Government Act if the conduct of these councillors is allowed to go unpunished by the Department of Local Government. I call upon the Minister for Local Government to act against these councillors.

### **BANKING INDUSTRY ENTERPRISE BARGAINING**

**The Hon. PETER PRIMROSE** [11.04 p.m.]: The Finance Sector Union [FSU] has warned that three of Australia's big four banks face national industrial action after the banks failed to respond to a union deadline on enterprise bargaining. The New South Wales/Australian Capital Territory secretary of the FSU, Mr Geoff Derrick, has stated that Westpac, ANZ and the National Australia Bank have failed to address staff concerns over pay and workloads as part of the current round of enterprise bargaining in the industry and will now face rolling industrial action. The FSU is seeking two 7.5 per cent pay rises in enterprise agreements spread over 24 months. A key issue for the union is also an agreement with the banks on achievable workloads, involving commitments on more staff, shorter queues and less sales pressure. The union is also seeking employment security after a rash of job losses in recent years.

The Commonwealth Bank is excluded from the campaign because it reached a pay deal several months ago giving staff two pay rises of 4 per cent and 3 per cent over two years, plus performance bonuses averaging 1.8 per cent, but the other banks have offered a ridiculously low pay rise that in some cases equates to approximately 40¢ per week. The major banks have started a serious assault on the wages and conditions of their own staff and appear to be creating a new class of bank employee—the working poor. Despite repeated efforts by the FSU, the banks have also walked away from genuine commitment to addressing issues around staff levels, workloads and service levels. Mr Derrick said:

Being offered 40 cents a week payrise while the CEO's are earning up to \$2.5 million a year is an insult to staff and totally un-Australian.

The banks have refused to listen to the concerns of customers and the broader community and are now walking away from their responsibilities to their own staff. It cannot be reasonable that, while the banks make record profits, boards award themselves 50 per cent pay increases and chief executive officers earn up to \$100,000 a fortnight, they are offering wage increases valued at less than cost-of-living increases to those working on the front line of their operations. On behalf of bank employees and the whole community, I commend Geoff Derrick and the FSU for their campaign.

### **METHYL TERTIARY BUTYL ETHER**

**The Hon. IAN COHEN** [11.06 p.m.]: I referred to this matter previously when I spoke about bio-diesel—which is a good, positive fuel option. The Federal Government is soon to decide whether to allow the fuel methyl tertiary butyl ether [MTBE] into Australia. This fuel additive is banned in almost 50 per cent of States in the United States of America, including California. The United States blacklisted MTBE—which is 15 per cent to 30 per cent cheaper than petrol—as some fuel companies were adding up to 40 per cent of the chemical to fuel. Ghost towns are dotted around California, including near Lake Tahoe, as a result of MTBE poisoning. An entire beach county, Santa Monica, which was self-sufficient with more than 1.5 million residents, now needs to import its water as its subterranean aquifer is totally contaminated with MTBE.

The petroleum industry forced the United States Government to mandate double-lined underground tanks to prevent MTBE from leaking into the ground, but only the petroleum company-owned stations could afford to do this and 40 per cent of stations—including all but 2 per cent of independent stations—closed overnight. More than 15,000 petrol stations around the United States have been tested for residual MTBE levels and not one was found to be free of MTBE contamination. MTBE has a much higher flashpoint than petrol, which means that for its first 10 minutes of operation a car literally drips MTBE from its exhaust. As little as one cup of MTBE will contaminate 40,000 litres of water, making it undrinkable. MTBE is artificial and no process other than combustion can break it down. This means that once MTBE is in water no organism will touch it and it will remain there forever. MTBE mixes so well with water that only a couple of very expensive types of filters will remove it.

Europe decided against using MTBE and has opted to use ETBE, which is ethanol based, and ethanol. The TBE part of MTBE is a petroleum industry waste product, which is why it is so cheap. The Federal Government appears to be poised to make a decision that would sanction the importation into Australia of fuel containing the additive MTBE. Experience in the use of MTBE elsewhere, particularly in the United States, points to the very high risk of undesirable long-term adverse impacts on surface and groundwater supplies. The introduction of MTBE was driven initially by air quality considerations, and it has delivered demonstrable benefits in that regard. However, the risk to water resources outweighs the benefits and there are other less hazardous ways of addressing emissions concerns. Current consideration of the issue in Australia appears to be driven by economic considerations, with environmental concerns carrying relatively little weight in the discussion.

I have received information about MTBE from various environmental organisations that are extremely concerned about the additive. We intend to write to the State and Federal governments asking that the importation of MTBE into Australia be banned. The industry is pushing for the use of MTBE for financial reasons, but it could have an immense impact in Australia because of our heavy reliance on aquifers and subterranean water supplies. Its potential for polluting our groundwater system is immeasurable. We could opt for cleaner ethanol-based and even petroleum-based products that are carbon neutral. We could create an industry that would reduce our greenhouse gas emissions. MTBE is an extremely dangerous, toxic substitute. The polluted area around Santa Monica is equivalent in size to the area from Parliament House to Cronulla—just imagine if all the groundwater in that area were poisoned. This substance moves through the water so quickly—it has an extraordinarily high miscibility factor—that it will create havoc if it is allowed into this country. It would be wonderful if Parliament could apply some pressure on the Federal Government to prevent its importation.

**Motion agreed to.**

**House adjourned at 11.10 p.m.**

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