

# LEGISLATIVE COUNCIL

Wednesday 5 June 2002

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

**The President** offered the Prayers.

## COMPENSATION COURT REPEAL BILL

## CRIMES (FORENSIC PROCEDURES) AMENDMENT BILL

## JUSTICES OF THE PEACE 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 readings of the bills be set down as orders of the day for a later hour of the sitting.

**Bills read a first time.**

## SESSIONAL ORDERS

**Motion by the Hon. Malcolm Jones agreed to:**

That the sessional order relating to the cut-off date for consideration of Government bills be amended by omitting from paragraph 1 (a) the words "in September 2002" and inserting instead "after the winter recess".

## STANDING COMMITTEE ON STATE DEVELOPMENT

### Reporting Date: Inner Sydney Local Government Boundary Changes

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

That the reporting date for the reference to the Standing Committee on State Development relating to local government boundary changes in inner Sydney and eastern suburbs be extended to Friday 30 August 2002.

### Reporting Date: Rhodes Peninsula

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

That the reporting date for the reference to the Standing Committee on State Development relating to Rhodes Peninsula be extended to Friday 28 June 2002.

## BILLS UNPROCLAIMED

**The Hon. Michael Costa** tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 4 June 2002.

## PETITIONS

### Freedom of Religion

Petition praying that the House retain the existing exemptions in the Anti-Discrimination Act applying to religious bodies, received from **the Hon. Rick Colless**.

**CIVIL LIABILITY BILL****Second Reading****Debate resumed from 4 June.**

**The Hon. HELEN SHAM-HO** [11.12 a.m.]: As honourable members would be aware, the draft bill was released in early May and certain changes have been made as a result of public consultation. I support the spirit of the bill, which will help to bring down insurance premiums that are crippling many community groups and businesses in New South Wales. However, I must admit that I have strong reservations about the bill with regard to the certainty of insurance premiums falling and about the retrospectivity of the bill. Extremely high premiums led to the need for this measure in the first place.

The Premier referred in his second reading speech to the approach of courts to public liability as being "unsustainable". High payouts in the courts for injuries have contributed to ridiculously high public liability insurance premiums. I am sure honourable members know only too well about the devastating impact that high public liability insurance premiums are having on communities throughout New South Wales. These premiums have gone through the roof, forcing local councils, small businesses, non-government organisations and sporting and cultural community groups to either not hold events or risk not having any public liability insurance at all.

I know from personal experience of one example involving my husband, Councillor Robert Ho. His dragon dance, which is normally held every year in Chinatown for the Chinese New Year celebrations, had to be cancelled owing to the fact that public liability insurance cover would have cost too much. He had to withdraw because he would have had to pay for it himself. I have received correspondence from Councillor Tracie Sonda, the Mayor of the Sutherland Shire Council, who also supports this view. In a letter dated 24 May 2002 she stated:

Councils do not want to close facilities but the exposure to damages claims is becoming so great that this option is being considered, particularly in rural communities where facilities and choices are limited.

Over the past few weeks I have received about 20 letters and more emails on this bill, with arguments for and against it. In support of the bill I received a letter dated 30 May from Councillor Peter Woods, the President of the Local Government Association of New South Wales, and Councillor Mike Montgomery, President of the Shires Association of New South Wales. They state:

The bill when enacted will provide significant relief from the current difficult situation in relation to public liability insurance.

Similarly, Mr Christopher Brown, chief executive of the Tourism Task Force, stated:

There is a pressing need for Public Liability Insurance reform in NSW. Without this reform the tourism industry faces the loss of thousands of jobs, mostly from small businesses.

I have also received correspondence from many people and organisations who strongly oppose the bill. Opposition to the bill comes from many different quarters and I will briefly discuss the nature of that opposition. First, plaintiff lawyers and organisations that support people with personal injury claims have been vocal in their opposition to the bill—in particular, the Australian Plaintiff Lawyers Association, which briefed the crossbench yesterday and launched the Coalition for the Injured on 16 May specifically to oppose the legislation. The association has stated that it opposes the bill in its entirety.

The Coalition for the Injured includes the Australian Consumers Association, Injuries Australia, the Australian Psychological Association, and People with Disabilities. My understanding is that this coalition sees injustice in insurance companies gaining from this measure while injured plaintiffs are prevented from making legitimate claims. I will discuss this point in greater detail at a later stage. I have also received correspondence from the solicitors who deal with personal injury, including the famous Marsden's Law Group, Kelly and Co Solicitors and Stacks-The Law Firm in Taree. Each of the principals of those firms has at one stage been president of the New South Wales Law Society, and I know them quite well. I believe what they say because they have credibility and standing.

Each group wrote to me while the draft bill was being circulated expressing concern about the limit on the amount that lawyers could charge. I am pleased that the Government has reached a compromise and has amended the cap on plaintive lawyers' costs for claims under \$100,000 to \$10,000 or 20 per cent of the amount

recovered by a plaintiff, instead of \$5,000 or 15 per cent of the amount. This will enable plaintiffs' lawyers to still take on small claims under \$100,000 and will make the law more accessible for people who may otherwise not be able to make a claim or have their case taken on by a lawyer. I agree with the Premier's comment that the cap will promote efficiency in the system. It will probably help to bring down claim costs as well.

After having been briefed by the four interest groups yesterday, I have certain reservations about this bill. I will outline some of the issues that were raised with the crossbench yesterday relating most importantly to falling premiums and retrospectivity and whether the insurers will get a windfall from this aspect of the legislation. Another related issue is whether any insurance companies will withdraw from the marketplace, thereby reducing competition and in turn affecting premiums. There seems to be a vicious cycle in operation.

Members on the crossbenches were briefed on the bill by the following four groups: the Insurance Council of Australia, the Australian Plaintiff Lawyers Association [APLA], the Australian Consumers Association [ACA] and the Law Society of New South Wales. Each group gave a different perspective on the bill and on the related issue of insurance premiums. The Insurance Council, led by Allan Mason, Executive Director, stated that public liability is a disaster zone for the insurance industry.

The Insurance Council provided members on the crossbenches with statistics from the Australian Prudential Regulation Authority for the period 1998 to 2000, which showed a loss of \$1 billion to the industry. It is clear though, as other representatives pointed out, that the insurance industry is unregulated and that any losses incurred are due to commercial decisions made by directors of companies. Insurance companies are money-making enterprises. I would like to refer to actuarial advice given to the Law Society by Richard Cumpston, Director of Cumpston Sarjeant Pty Ltd, consulting actuaries, on 31 May 2002. Mr Cumpston states:

There has never been any legislative control over public liability insurance premiums in Australia. Any losses by insurers over the last 10 years are thus a consequence of premiums that insurers have set on the basis of their experience and business judgment to retain market share in a competitive market. A reduction in competition provides the opportunity to increase premiums.

There must be some guarantee that premiums will fall as a result of this legislation. But no such guarantee has been provided. Yesterday the Insurance Council did not even want to refer to a fall in premiums. It is important to remember that the Premier in his second reading speech openly admitted that the Government could not bring down premiums. The Premier stated:

To be sure that premiums will fall and that insurers will not make gains from this reform the Commonwealth must act.

I understand that the Federal Government is trying to do something about this issue. I hope that it takes action soon to rectify the problem. As I said earlier, the Insurance Council refused to give such a guarantee or to make any statement about a fall in insurance premiums. Insurance companies are non-regulated commercial enterprises. I said earlier that the Australian Plaintiff Lawyers Association and the Australian Consumers Association are opposed to this bill in its entirety. I understand the reason behind their opposition. From their perspective, this bill is about insurance companies making profits from injured people and from consumers.

**The Hon. Malcolm Jones:** They make profits from premiums. That is where the loss comes in, from the injured people. It is a matter of making profits out of premiums.

**The Hon. HELEN SHAM-HO:** I understand that. That is why they have to increase premiums. There are a lot of misconceptions about insurance companies. I do not think insurance companies have been frank and open about their profitability margin.

*[Interruption]*

The Hon. John Ryan and I have had some experience of insurance companies as a result of several committee inquiries. Catherine Wolthuisen, Finance Policy Officer at the Australian Consumers Association, argued that there is no evidence of a causal relationship between litigation for personal injury claims and the high premiums charged by insurance companies. The ACA believes that the only way to bring down insurance premiums is through structural reform of the insurance industry. I agree with that argument. That is why I said that the Federal Government will have to do something about this problem. The insurance industry might have to be regulated.

I turn now to the retrospective aspects of this bill. On 7 May 2002 the Premier announced that this aspect of the bill would be made retrospective and backdated to 20 March 2000. Retrospective legislation should

not be used lightly by Parliament. I believe that it goes against the rule of law. I have never liked retrospective legislation; I do not think it is fair. In this case retrospectivity would be absolutely unfair. After public consultation the provision no longer applies to claims against the Government. As the Premier said in his second reading speech, claims against the Crown can go ahead if the claim had been notified to the Crown before 20 March this year and proceedings are commenced before 1 September this year. However, if a claimant's injuries have not stabilised by 1 September, that claimant would be exempt from that deadline.

I am pleased that the Government made that change. However, I think it should apply to all claimants. Members on the crossbenches were told by the Law Society that possibly 9,000 claimants could be prevented from making claims due to the backdating of the bill. I understand that local councils, such as at Waverley and Parkes, are supporting the retrospective aspect of this bill. However, the Law Society is definitely against that aspect of the bill. The President of the Law Society of New South Wales, Kim Cull, discussed the retrospective problems relating to this bill. She pointed out it is totally unnecessary in order to prevent a rush of claims. It will be hard for non-lawyers, in particular lawyers who are not involved in litigation, to understand.

District Court practice note 33 requires matters to be ready to proceed to hearing when filed, which is different from compulsory third party or workers compensation claims. District Court practice note 33 specifies that unless a matter is ready to go to court it cannot be filed. However, retrospectivity is where true injustice could occur. Not only have claimants paid their insurance premiums for the year, Parliament is retrospectively reducing the cover provided by preventing claims being made. The insured receives no rebate from the insurer and the insurance companies make a profit from this practice. People are paying insurance premiums for three months for nothing because they are being prevented from making claims.

The Law Society warned members on the crossbenches that if this bill is passed without amendment to its retrospectivity clauses, there could be huge class actions for rebates from insurance companies due to breach of contract. Representatives from the Insurance Council said during the briefing that the industry did not receive a windfall profit; it is actually undercharging by 30 per cent and it has a lot of catching up to do. I will read onto the record the briefing notes from the Law Society on 3 June, which state in part in annexure A:

The retrospective provision seems aimed at preventing people bringing claims in respect of previous accident years, in order not to drive up costs in future years. However, the insurers have already taken the costs of these claims into account when they set their premiums for the current year. Stopping people bringing these claims will do nothing to affect future premiums. All it may do is increase the insurers' profits at the expense of the injured.

The Law Society could be right. I do not think it is necessary to have these retrospective provisions in the legislation. According to actuarial advice given by Cumpston Sarjeant Pty Ltd on 23 May 2002 to the Law Society, insurance companies are likely to receive windfall profits of between \$100 million to \$150 million. I would like to know how that can be justified on legal and moral grounds. It is extremely abhorrent that that could be as a result of retrospectivity. Parliament should consider this retrospectivity aspect more carefully. The Government might want to remove those provisions from the bill. Although I do not agree with the retrospectivity aspects of the bill, I support the bill and commend it to the House.

**The Hon. MALCOLM JONES** [11.30 a.m.]: I was the first member of this House to flag the problem of public liability insurance as it started to develop, in my adjournment speech on 13 November last year. Insurance companies are usually and frequently demonised by members of this place who have no knowledge of the industry, only sometimes deal with people who have claims rejected, and then usually cite only one side of the problem. I have been associated with the insurance industry for three decades, and I probably have a different point of view of the industry from everyone else in this place. Factors affecting underwriting of public liability are as follows. On September 11—

[Interruption]

The Deputy Leader of the Opposition has suggested that what I have just said is not the case. I point out to honourable members that the increase in public liability premiums really started to develop in the panic that followed the events of September 11. I ask the Deputy Leader of the Opposition to come up with *Hansard* evidence—

**The Hon. Duncan Gay:** It was a long time before that.

**The Hon. MALCOLM JONES:** No, it was not. Premiums were not a problem this time last year. Yesterday the Plaintiff Lawyers Association produced evidence in a Federal Government document showing that premiums in 2001 were 90 per cent of premiums in 1991. It was not a problem that was reflected in premiums. If Opposition members have any evidence to counter what I say, they should produce it—

**The Hon. Duncan Gay:** It was an issue at the last election.

**The Hon. MALCOLM JONES:** But the premiums were not a problem at the last election.

**The Hon. Duncan Gay:** They were.

**The PRESIDENT:** Order! I remind members that interjections are unruly at all times.

**The Hon. MALCOLM JONES:** I challenge the interjectors to provide proof. Following September 11, all insurance companies became very nervous about public liability insurance. It was a worldwide issue. The losses incurred in New York are still to be estimated. The events of September 11 also affected Australia, because many Australian companies had insurance cover in New York. Those companies still have not quantified the amount of their loss. The potential for further terrorist attacks is heralded daily in the international media and cannot be underestimated. Insurance companies have liabilities under existing contracts that they cannot quantify. The worldwide history of underwriting losses for public liability has escalated over the past 12 months. It takes a while for such losses to be quantified. Countries that have a common law legal system, as we have, have suffered the same types of awards we are suffering. This indirectly affects reinsurance companies; indeed, many reinsurance companies have withdrawn from covering risk.

Locally, we are also affected by awards handed down by courts that are often considered by many to be excessive and have not been costed in line with premium costing practices. Furthermore, public attitude to litigation has changed considerably. The slip-and-fall claims, which insurance companies are compelled to pay, have become a considerable problem for insurers with regard to claims settling. Lawyers working on a no win, no fee basis often results in lawyers unscrupulously dumping clients on the doorsteps of courts. Unfortunately, certain company directors in Australia engage in imprudent activities. The collapse of HIH Insurance demonstrates how vulnerable we are in Australia. If one operator fails, it throws our market into considerable difficulty because the market does not have sufficient resources to absorb those losses. One of the issues that has driven insurers away from the market is the degree of prudential reporting that is required, together with increases in reserves to cover risk. I believe this issue has been addressed in the Federal arena, but it is to be observed as a major contributing factor to insurers leading the market.

For the benefit of members who are not familiar with the way insurance companies operate, it is a pool of risk. Money goes into the pool, and the balance at the end of the period is either an underwriting loss or an underwriting profit. This is why clients whose premiums have increased drastically may not have actually made a claim. It is to cover the overall underwriting losses. The exasperation that this causes at times is clearly a reflection of the fact that people simply do not understand how the pooling arrangements work. Another aspect that has an impact on insurance pools is the investment income that funds can earn. Due to prevailing low interest rates, this has obviously reduced earnings. We are in a free market as far as insurance is concerned. No-one is compelled to write any specific class of business. Insurance companies are not even compelled to write workers compensation insurance, other than under the Government scheme. Public liability is a high risk and low premium class of business. Virtually every insurance company can do very well without writing this class of business. So the challenge is to persuade insurers to return to the market.

If insurers do not return to the market, social life in Australia, as well as professional life—things like professional indemnity, the supply of medical services, and travel—will be threatened by this crisis. This place has already attempted to deal with third party motor vehicle insurance and workers compensation. It has approached the issue by tackling the unregulated control of benefits awarded. It has also sought to tackle processes. However, as an emergency measure, the Government has moved in a state of urgency to do what it can to address the crisis. As I have previously stated, many factors are clearly beyond our control. Immediately within our control are the unregulated benefits awarded—hence this bill. That is what the bill is about. Many are concerned about what reductions in premiums will result and what profits insurers will make—the usual resentful attitudes of the extreme Left.

Most importantly, I urge the Parliament to firstly work to securing insurance markets for public liability. Members have been going on about lowering premiums. That is a secondary consideration. If insurance companies return to the market, competition will prevail and hopefully we can then expect reductions in premiums. The Hon. Helen Sham-Ho spoke about guaranteeing a reduction in premiums. This is simply not possible; it is putting the cart before the horse. If we do not resolve these issues, the Australian way of life as we know it in many areas will change, possibly so much as to become unrecognisable. As other honourable members said, a crossbench meeting took place yesterday. For the record, the Insurance Council of Australia

gave us a clear undertaking that underwriting losses already incurred will not be mitigated by changes to premiums following this legislation being passed. I am pleased that the Government has exempted from the legislation those who are suing the Government. I believe that is erroneously referred to as the retrospectivity aspect of the legislation.

The legislation addresses an urgent problem, but it can only address a small segment of the problem. I am confident that the measures contained in this bill will be a great help. The alternative to this bill is, possibly, no markets for public liability. There is no compulsion for anyone to underwrite this class of business. In technical terms, currently this is a very hard market. It has never been as difficult in peacetime. Let us secure our markets. The Hon. John Ryan said that the bill does not protect the cake stall owners and surf clubs, et cetera. I disagree. I reiterate that this bill, hopefully, will maintain the insurance market that anyone can buy cover from. Premiums are another issue and have to be considered separately. At a meeting early yesterday the general managers of both QBE and Allianz said that if the bill is passed they wish to re-enter the public liability market—they had withdrawn from the market. I have heard honourable members say with some alarm that insurers may get a windfall profit of \$150 million. So what? It is common for insurers, collectively, to have to absorb underwriting losses of far more than \$150 million.

**The Hon. Duncan Gay:** What do you mean, "So what"?

**The Hon. MALCOLM JONES:** An underwriting loss of \$150 million is not a big deal, and if the Opposition pretends it is—

**The Hon. Duncan Gay:** Your four-wheel drive mates will love to hear that.

**The Hon. MALCOLM JONES:** In a market that has assets to sustain an underwriting loss of billions, and with the amount of money invested in the insurance market, such an underwriting windfall is a very small percentage. Lots of people have been going on about the insurance companies opening up their books for people to scrutinise. Most of these companies are public companies. The annual reports are considerable documents. They contain balance sheets. For those who can read balance sheets, the information is there for them to read. It is not hidden, as many members contend it is. I reiterate what the Hon. Peter Breen said last night. Clearly, many honourable members did not hear what he had to say. As far as retrospectivity is concerned, when an insured effects a public liability policy he buys indemnity for members of the public suing him. The only place the sum insured is mentioned is the maximum liability. If an insured is sued by a member of the public, the amount of benefit awarded—provided the policy is current—is of little consequence to the insured at that time. So the Government capping benefits does not change the amount of cover that has been bought. No amount of cover has been bought; it is an indemnity. I commend the bill to the House.

**Ms LEE RHIANNON** [11.43 a.m.]: I support the comments of my colleague the Hon. Ian Cohen, who clearly outlined why the Greens do not support this bill and why we feel very strongly about it. The bill is based entirely on two unsubstantiated assertions. First, the Carr Government claims that the massive rise in premiums for public liability insurance is a result of a concomitant increase in payouts. Second, we are being asked to believe that this bill, which significantly reduces the rights of the injured, will reduce premiums to a level where they are once again affordable for community groups and not-for-profit organisations, which are hurting so badly at this time. Neither of these claims is supported by uncontestable fact. Neither of these claims has been made by the most vocal supporters of the bill, the Insurance Council of Australia. Neither of these claims should be given any credence in a rational policy-setting process. Tragically, they are. It is remarkable that the House is being asked to substantially reduce the rights of the injured by limiting the payouts available and by limiting access to legal representation based on myth and allegation.

This can be seen only as a massive failure of the policy process, one which no doubt we will be asked to reverse once the voting public has had an opportunity to see the way in which it was conned by a government that is in the pockets of the massively wealthy insurance industry. That has been shown clearly. Throughout all the tactics played out around this issue in recent weeks, the insurance industry has been presented by the Government as the clean skin, with the lawyers being the whipping boys. What has transpired in New South Wales has been policy making by *Daily Telegraph* story: a few juicy claims allowed by lower courts trumped up on the front page of the *Daily Telegraph* and next thing we have a tort law reform process with the frequently repeated phrases "ambulance-chasing lawyers" and "Santa Claus judges". How many times have we heard those phrases? It is to the cost of the injured and to society as a whole that the stories are neither indicative of the more complex reality nor are they necessarily accurate.

For example, we understand that at least one of the major payout claims is now subject to an appeal where the quantum is likely to be significantly reduced. We further understand that the padlocked playground

swings so famously shown on the front page of the *Daily Telegraph* article and mentioned ad nauseam on various radio programs were closed for maintenance and not because of rising public liability premiums. This has not bothered the Carr Labor Government, it seems. If you have a good story, you stick to it. Why let the suffering of people who are injured get in the way of enhancing your business credentials? It certainly is about business. It is interesting to contrast this behaviour with that of other eastern States. I refer to Queensland and Victoria. Both of those Labor States resisted the temptation to succumb to tabloid shock. Both of those Governments are engaging in the difficult and testing project of developing real solutions that will deliver sustained, long-term premium reductions. I understand there is an ongoing discussion process with the various stakeholders.

There is no urgency in those States and, indeed, there is no urgency in this State. Both of those Governments are calling together the various players to develop substantial policy changes that will protect community groups and the rights of the injured. They might also choose to pursue tort law reform but, if they do so, it will be informed by rational policy settings not by tabloid rumour. It is a great shame that the people of New South Wales are not afforded the same level of respect by their Labor Government. But at least this legislation and the process leading to it shows where the priorities of Sussex Street and the Governor Macquarie Towers lie. Labor's prime focus is on the campaign donations it can bring to the next election. It will certainly be interesting to scrutinise those returns post-2003.

The Greens are deeply concerned that this bill will not solve the crisis facing local government, the not-for-profit sector and community organisations. Indeed, representatives of the Insurance Council of Australia have made it clear that their view was that the bill might reduce premiums by about 10 per cent to 12 per cent, but they could not be sure of the exact amount. Given the magnitude of the premium increases, decreases of 10 per cent to 12 per cent would be largely insignificant. They are more like public relations window dressing than any substantial solution to the crisis. The comments by the council come on top of the inability of Carr Labor Government representatives to show that this bill will decrease premiums. A week of scare tactics has been meted out to the public and politicians. The Premier has thundered that no amendments to the bill will be tolerated and he has thundered about the need for joint sittings if any changes were even considered—all to create the atmosphere that this bill is needed to avert a so-called financial crisis.

This debate has shades of the workers compensation debate. In a similar way, the drum was thumped and we were all led to believe that the State was on the brink of something dastardly. Let us remember how the Government worked this through with the workers compensation debate at the end of last year. If we did not bow down before the Minister for Industrial Relations and his workers compensation solution we would have great problems in the State. The Government presented how irresponsible we would be if we did not go along with that. I simply want to emphasise the similarity. It is worth remembering a bit of recent history, because it helps to reveal Labor's underhand tactics.

The workers compensation legislation was assented to on 1 January 2002. The accrued liability was reduced by about \$250 million. However, that decrease occurred in December last year. Those figures are based on a letter that the Treasurer sent to the *Australian* on 22 April. The point is that the decrease in accrued liability occurred before the legislation had even kicked in; it had not even got to day one. Once again I am showing why we need to be wary when the Government beats a big drum of scare tactics. The reality of the Carr Government's so-called reform is now apparent. No substantial solution to the community but lots of pain for the injured is how it will play out. Once everything has settled down, that will be the outcome.

To address the issue of the crisis in climbing premiums, it is necessary to look for the real causes. These are manyfold and complex, and perhaps too complex for the tabloid-driven Carr Government, but they still need to be dealt with. The first and most obvious is the failure of the insurance market. Like all markets, it appeared to work well when the going was good, when there was ample competition and when the raw materials—in this case, re-insurance—was in plentiful supply. But now the market has come unstuck. Years of underpricing by HIH followed by a spectacular collapse caused havoc with both profitability and now with market depth. Nothing in this bill will address that problem. Indeed, what is needed is substantial reform to market regulation to avoid a repeat of the HIH catastrophe. However, there is little likelihood of that occurring with the current strength of the insurance industry lobby.

The second driving force behind rising premiums is stress in the re-insurance market caused by the events in New York and Washington on September 11 last year. The re-insurance market, which is where the retail insurers go to spread their risk, is internationally based so a large claim event in one country spreads to all other countries and shows up in premiums everywhere. Nothing in this bill will address that problem. To

seriously redress the crisis caused by these issues requires more than this Government is prepared to do, because to provide serious relief to these problems would require serious intervention, which might hurt the profits of the insurance industry. Interestingly, I attended the meeting yesterday with representatives of the Australian Insurance Council. We asked them about profitability; we asked them to provide us with the figures for current profits of its companies and the salary packages for its chief executive officers and top management. And we are still waiting.

We suggest that the Carr Government return to its microeconomic textbook and look up "market failure", because surely that is what is happening in the provision of public liability insurance. Unless the Government's textbook is as dry and neo-classical as the ideologically blinkered advice it receives from Treasury, it will talk about a range of options for dealing with market failure, including regulation of private providers and public provision of services. This is not revolutionary. It is even being reformist. Basically, these options are simply tactics that one must employ when the markets do not work properly.

Even the Federal Liberal member Joe Hockey has realised that real cures require real actions by State governments. He has called for the recreation of State government insurance offices. Until we take that step, we will not be able to get even partial solutions to the problems we are facing with liability. Yet the Government is ignoring these options. Even its reduction of stamp duty on insurance premiums is poorly targeted. The Greens would argue that a better short-term approach might have been to keep the stamp duty and to use it to cross-subsidise into premiums for the community, not-for-profit and local government sectors.

The Government chose also to ignore the option of helping small users pool their risk into self-insurance arrangements. The Meals on Wheels example illustrates this so well and shows how much can be achieved. That organisation has successfully managed to keep afloat by breaking out of the insurance market and becoming a self-insurer. It does that itself, and it does so very well. However, for many other smaller organisations, the issue would be claims management, which is key to a successful insurance outcome. Here again the Carr Government shirked its responsibility to help small organisations in stress by failing to supply a claims management service and other assistance in risk pooling.

Talking to various colleagues, I note that the issue of not-for-profit groups is causing much distress. I know from many fellow members in this place that all of us have heard many tragic stories. I will relate only one story that relates to a small Greek women's organisation that meets in a hall in Ashfield to hold various workshops and classes in different activities. That organisation has found that it is likely to lose the use of that hall. This is a tragedy for multicultural Australia as well as our overall sense of community. Instead of taking on the difficult issues, the innovative approaches and the public sector solutions, the Carr Government chose the easy path—populist lawyer bashing and mean-spirited tort reform. For the Greens, this is just another one of the tricks that have been the Government's hallmark.

The genuine damage that is being done to community groups, not-for-profit organisations and local organisations by high premiums will go unaddressed if the Government continues to follow the tactics we have seen to date. The tort reforms in this bill will damage the rights of the injured and will, by removing the salutary effects of the threat of compensation payouts, dilute our progress towards a safer society. I put on record the Greens appreciation of the Australian Plaintiff Lawyers Association [APLA] and the Australian Consumers Association [ACA]. The ACA, in its materials and work on this issue, has not just been taking the viewpoint of the injured but has been taking a whole-of-society point of view. It has recognised that we need to look past narrow interests and think about how our society works. The big insurance companies should not be dictating the so-called solutions.

I also put on the record the Greens appreciation to APLA, which has provided clear and reliable information. I want to emphasise that because APLA has been attacked in an unprincipled way by politicians from various political parties. There are many seriously defective aspects to this bill, including retrospectivity, the caps and thresholds on damages, and the way in which the elderly and low-income people are discriminated against because their economic loss is small. The Carr Labor Government has deserted the injured and the groups and organisations that are suffering under the burden of skyrocketing premiums. It has abandoned its obligations to making society safer and reducing the incidence of debilitating injuries. It has thrown in its lot with the insurers. Again, the Government is hanging out with the big end of town. As I said earlier, it will be interesting to look at the returns come the 2003 election.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [11.59 p.m.]: I want to briefly speak to the Civil Liability Bill and the impact the ongoing public liability insurance crisis is having and has had on the 172 local government councils across New South Wales. Before I do so, I also want to correct the record in relation to comments by the Premier about me in another place last week regarding this legislation.



**The Hon. Eddie Obeid:** Getting sensitive!

**The Hon. DUNCAN GAY:** If the Premier wants to be free swinging in his scatter-gun approach to personal denigration he runs the risk of the terrible mistake he made yesterday in the Legislative Assembly, as reported on page seven of the *Hansard* proof. I ask honourable members to read that and make up their own minds.

**Pursuant to sessional orders business interrupted.**

## QUESTIONS WITHOUT NOTICE

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### BUILDING INDUSTRY ENTERPRISE AGREEMENTS

**The Hon. MICHAEL GALLACHER:** My question without notice is to the Minister for Industrial Relations. What action will the Minister take following allegations made yesterday at the Cole royal commission, as reported in today's *Australian Financial Review*, that the Construction, Forestry, Mining and Energy Union [CFMEU] in New South Wales refuses to sign enterprise agreements unless a company's work force is 100 per cent unionised? Has the Minister instructed the Department of Industrial Relations to investigate whether such behaviour constitutes a breach of sections 209 and 210 of the Industrial Relations Act relating to freedom of association and freedom from victimisation respectively?

**The Hon. JOHN DELLA BOSCA:** I appreciate that the honourable member is asking questions about the Cole royal commission that has rolled into town. It does not surprise me that the Leader of the Opposition is interested in its serious deliberations, as all honourable members should be. I recommend the honourable member read closely the adjournment speech of the Hon. Ian West. My colleague gave a very good account, in the short time available, of the issues to be examined when considering the deliberations of the Cole commission and whether it is acting in the interests of the building industry, working people generally, employers and the people of New South Wales.

This Government has made considerable efforts to maintain a harmonious industrial relations environment in the building industry. The code of practice for the construction industry establishes the principles and standards of behaviour that must be observed by any contractor wishing to do business with the New South Wales Government. The Government is a major provider of construction and building activity and work, as honourable members can see from the tabloid reports today of the capital works program in the budget. The code of practice brings together employers and unions in forums such as the Construction Industry Consultative Committee to examine issues of mutual importance, industrial relations issues, health and safety issues, as well as WorkCover's industry reference groups in the construction and building area.

The Government will co-operate with the royal commission. We hope that the reality of the royal commission will reflect a balanced approach to investigating the building and construction industry, including practices that have repeatedly been drawn to the attention of Justice Cole, such as phoenix companies, about which this Government will not let the Commonwealth forget. Phoenix companies are one of the biggest problems in relation to workers' entitlements, frauds and the like, and workers compensation payments that are not being properly collected, abuses in labour hire companies and labour hire employment. We do not need a \$60 million royal commission to investigate, find out and do something about phoenix companies; the Federal Minister should do it. The Premier and Leader of the Government and I have said on a number of occasions we will co-operate with the Cole royal commission in every respect. I will not run to the Department of Industrial Relations [DIR] or to WorkCover, and ring up inspectors and demand that they respond to every *Australian Financial Review* headline in relation to the royal commission.

I repeat, the Government has cultivated a responsible New South Wales industrial relations environment, as the Leader of the Opposition knows. It is one that employers and employees find beneficial both from a fairness and production point of view. The system that the Leader of the Opposition and his Federal colleague want to bring to New South Wales is the system operating in Victoria where they cannot get anything built. People are packing up, and investment is leaving Victoria. Increasingly, our fair and honest industrial relations climate compared with the practices, rife in Victoria under the Federal-style industrial relations that the Leader of the Opposition wants to introduce here, is causing Victoria to lose its competitive advantages against us. I do follow the Cole royal commission and the *Australian Financial Review* with interest, but I will not ring up DIR inspectors and WorkCover demanding that they chase after every headline that some cheer seeker at the royal commission is looking for.

### DUST DISEASES BOARD MOBILE RESPIRATORY SCREENING PROGRAM

**The Hon. PETER PRIMROSE:** My question is to the Minister for Industrial Relations. Will the Minister outline the latest developments in screening workers for dust diseases?

**The Hon. JOHN DELLA BOSCA:** I thank the honourable member for his concern about industrial illnesses.

**The Hon. Duncan Gay:** You never answer me when I ask that question.

**The Hon. JOHN DELLA BOSCA:** I would indeed, as you know.

**The Hon. Duncan Gay:** The last time I asked you, you read a second-hand answer that you gave me 12 months before.

**The Hon. JOHN DELLA BOSCA:** The question was the same, the answer was the same. It was a good answer! I used it again; it was accurate. Honourable members who approached Parliament House this morning from the Hospital Road entrance may have noticed a large coach-style bus in the grounds of Sydney Hospital. That is the latest program of the Dust Diseases Board to save lives in the dust disease arena. This morning I had the pleasure of launching the latest program of the Dust Diseases Board to save lives. In the grounds of Sydney Hospital, just next door, we unveiled the mobile respiratory screening program for New South Wales industry. This is an important question and answer, which the Hon. Dr Brian Pezzutti is not taking seriously.

The lung bus is a 14-tonne, 12-metre mobile clinic, built on a coach chassis. The facility includes advanced lung function testing equipment, an x-ray unit with digital imaging processor and specialised computer medical equipment. The lung bus is an outstanding occupational health and safety initiative which marks an important new dimension to the board's screening services. It will provide an efficient and cost effective outreach program to New South Wales industry. The screening process takes no more than 15 minutes per person and the facility is capable of screening up to 10 workers per hour. Workers are advised immediately of any health problems, and the physician on the bus can refer the patient for follow-up action. All records are held by the Dust Diseases Board and provide continuity in the monitoring of workers' respiratory health.

Research tells us that many men avoid going to the doctor unless they are very ill. By making this service available at work, the lung bus makes it much easier for men, in particular, to be responsible about their own health. Today, a major employer in Sydney has booked the lung bus to screen its workers. One of the future directions for the service is for the lung bus to be driven to a convenient industrial park location where a group of 50 or 60 workers, perhaps from different work sites and factories, could easily walk to the facility and be screened. We anticipate that the lung bus will see between 3,000 and 5,000 workers per year. If members wish to seek further information, the Dust Diseases Board has a brochure outlining its services, and a free call number: 1800 550 027. The health and safety of workers will always be a top priority of this Labor Government. Through the lung bus, New South Wales workers and future generations of workers will have access to a service which will identify, at the earliest possible opportunity, any potential health problems they may have developed as a result of their employment.

### LOCAL GOVERNMENT FUNDING

**The Hon. DUNCAN GAY:** My question is to the Minister Assisting the Minister for the Environment. How can the Environmental Planning and Protection Act justify fining councils for non-compliance with load-based licensing regimes while at the same time the Government is continually failing to deliver adequate funding over seven years to allow country councils to complete essential water and sewerage upgrading works under the Country Towns and Water Sewerage Scheme? Why has the Government delivered this double jeopardy to councils—such as Wellington, which has a real problem—across rural and regional New South Wales?

**The Hon. CARMEL TEBBUTT:** I thank the Deputy Leader of the Opposition for his question, which refers to load-based licensing. This was one of the many reforms introduced by the Carr Labor Government. The Minister for the Environment, the Hon. Bob Debus, and I have spent much time talking about those reforms. It is well acknowledged, as referred to yesterday in the Treasurer's Budget Speech, that this is a green Government. This Government has made significant efforts to introduce reforms across the system—whether those reforms relate to increasing the national parks estate, pollution reform, or legislation to assist the Environment Protection Authority do its job.

The honourable member referred to rural sewerage reform. I am advised that the Government has spent several hundred million dollars upgrading almost 100 sewerage and water supply schemes across country New South Wales. The Government also has transformed the management of on-site sewerage systems through new regulations and by providing a total of \$3.8 million through the Septic Safe Program to assist local councils to develop appropriate sewerage management strategies. The Coalition is completely bereft of environment policies. As far as I am aware, the only document released by the former shadow Minister for the Environment—who is no longer in the shadow Cabinet—referred to the need for china cabinets across the State. It was a joke. I suggest the Coalition get its house in order on environment issues before attacking this Government.

### SYDNEY CITY ABORIGINAL LAND CLAIMS

**The Hon. DAVID OLDFIELD:** My question is to the Special Minister of State as the representative in this Chamber of the Minister for Aboriginal Affairs. Is the Minister aware of public comments on land claims in the city of Sydney made on Monday night by Aboriginal and Torres Strait Islanders Commission [ATSIC] Chairman Geoff Clarke at the Eddie Mabo Memorial Lecture and played on ABC Radio yesterday? Is the Minister concerned about the desire of the head of ATSIC to make it easier for widespread Aboriginal land claims throughout the city of Sydney to succeed? Will the Government assist ATSIC's plans for easy unjustifiable land claims on valuable Sydney properties, or will the Government take an appropriate stand in sending the message that such claims are nonsense and will not even be entertained?

**The Hon. JOHN DELLA BOSCA:** I have to say I am not aware of the specifics of any of the particular claims, so I have no way—

**The Hon. Dr Brian Pezzutti:** Don't you read newspapers either?

**The Hon. JOHN DELLA BOSCA:** I said I am not aware of the specifics. There are hardly specifics in the newspapers. I will ask my colleague the Minister for Aboriginal Affairs to provide an answer to the honourable member's question as soon as practicable.

### GREY NURSE SHARK PROTECTION

**The Hon. AMANDA FAZIO:** My question is to the Minister for Fisheries. What has the Government done to ensure better protection of grey nurse sharks?

**The Hon. Duncan Gay:** Dress them in black!

**The Hon. EDDIE OBEID:** When I finish my answer I will respond to some of the interjections. My colleague the Hon. Amanda Fazio asks a very important question. The New South Wales Government is working with the community to protect our marine biodiversity. This includes grey nurse sharks. In the latest stage of protecting the endangered species, NSW Fisheries recently released a draft recovery plan. The community, commercial and recreational fishers, divers and conservation groups are being asked to have their say in helping to save this creature. This is the next step in better protecting the species.

In a world first, the New South Wales Government declared the grey nurse shark a protected species in 1984. The population did not improve, so in August 2000 the New South Wales Government upgraded the status of this shark to endangered. This means the maximum penalty for anyone harming or taking a grey nurse shark is \$220,000 and/or two years gaol. NSW Fisheries' draft recovery plan is seeking input on a number of proposals. They include protecting key areas where grey nurse sharks are known to exist. The NSW Fisheries draft plan is also asking the community to have its say about proposals to ban fishing likely to kill grey nurse sharks in these important habitat areas. I am also pleased to advise the House that NSW Fisheries is currently undertaking a new grey nurse shark tagging program.

This survey will be an important research project. It will give NSW Fisheries a better idea of population size, home ranges and seasonal movements. The New South Wales Government has contributed more than \$130,000 towards this research. The community is being asked to help also by reporting sightings of the species to a NSW Fisheries hotline number. This research will contribute valuable information to the grey nurse shark recovery plan. The draft recovery plan is available for community comment until 28 June 2002. NSW Fisheries will also hold a series of meetings with local communities and the stakeholders to discuss the plan. I would encourage anyone with an interest in the conservation of the grey nurse shark to help save this important species. The responses of Opposition members demonstrate that they are not interested in protecting our grey nurse shark. Nor are they interested in protecting anything environmental.

**The Hon. Rick Colless:** Rubbish!

**The Hon. EDDIE OBEID:** I'm not talking rubbish. I wouldn't pay \$220,000 to save you! The grey nurse shark is much more important than you are and contributes much more than you do.

**The Hon. John Ryan:** Point of order: The Minister's outburst clearly has nothing to do with answering the question.

**The PRESIDENT:** Order! I remind members that interjections are disorderly at all times and, therefore, the member with the call should do his or her best to ignore them.

#### SANDON POINT RESIDENTIAL DEVELOPMENT

**Ms LEE RHIANNON:** I direct my question to the Special Minister of State, representing the Treasurer. Is the Treasurer aware of the high risk of flooding in the proposed development at Sandon Point, near Bulli? Has he or his department developed an estimate of the likely risk to Treasury of a severe flooding event should insurance companies refuse to issue policies to cover flooding?

**The Hon. JOHN DELLA BOSCA:** I thank the member for her important question. The impact of issues such as flooding on insurance is one of the problems that for the past nine months or so have been confronting not just this Government but the community at large and the Commonwealth. As the honourable member has asked about a specific development and set of circumstances, I will ask Treasury to provide further information about that specific issue as well as the general issue of flood insurance. I was hopeful when the member got the call that she would ask me the first dorothy dixer about the building and construction industry so I could elucidate the answer I gave to the question asked by the Leader of the Opposition. I will get the information about flooding for the member as soon as I can.

#### BUILDING INDUSTRY ENTERPRISE AGREEMENTS

**The Hon. PATRICIA FORSYTHE:** My question without notice is to the Minister for Industrial Relations. What action has the Minister taken following allegations made yesterday at the Cole royal commission? It was reported in today's *Australian Financial Review* that the CFMEU in New South Wales was demanding that employers agree to contribute to a workers compensation top-up scheme before the union would sign off on an enterprise agreement. Faced with those allegations, and in view of his answer to the question asked earlier by the Leader of the Opposition, why would the Minister not instruct the WorkCover Authority to investigate whether such behaviour constitutes a breach of section 235A of the Workplace Injury Management and Workers Compensation Act relating to fraud on the workers compensation scheme? Is the Minister failing in his duty as Minister?

**The Hon. JOHN DELLA BOSCA:** An Opposition that is completely bereft of anything to say about policy, particularly industrial relations or workers compensation, obviously will spend the next couple of months avoiding its own research work. It will look at what the latest cheer seeker appearing at the royal commission has said about trade unionism and industrial relations in New South Wales. The New South Wales Opposition is just hopeless. The witness about whom the story in the *Australian Financial Review* is based, Mr Copeland, admitted under cross-examination that for the entire time he was working in the Federal Office of the Employment Advocate [OEA] at the Olympics site, he was "impotent". He had no powers, he lacked powers to do anything, to enforce anything, or to observe any industrial laws. That is the first point. My colleague the Minister for Police had dealings with him in the Minister's previous professional capacity.

**The Hon. Michael Gallacher:** What about previous dealings with him as Minister for Police?

**The Hon. JOHN DELLA BOSCA:** No. The Leader of the Opposition is attempting to distract me. The second point is that he was attacking the Construction, Forestry, Mining and Energy Union [CFMEU] but spoke about an employer, a prominent construction company. The only comment from any of the industrial parties involved in the incident about which he was testifying came from a chief executive or manager of a prominent construction company who replied, when confronted with the possibility that the OEA would impose a \$10,000 fine, "Ten thousand dollars? You have got to be kidding! I'll call my secretary with the petty cash tin to deal with it now, shall I?" This question has been asked by the very same people who are always making remarks about this Government being too tough on compliance issues and by imposing fines on employers.

**The Hon. Michael Gallacher:** You have just accused that bloke of having dealings with the police.

**The Hon. JOHN DELLA BOSCA:** He said under cross-examination that he was "impotent". This shining example of industrial law and good order had failed throughout the entire time to undertake a single prosecution. Not a single prosecution! He had been doing nothing else but poking around the biggest building site in the western world. Since the building of the Great Wall of China, there has not been a bigger building site than the Homebush Olympics site. Yet this bloke, in a cauldron of criminal activities that the New South Wales Opposition is worried about—this terrible spittoon of criminality on that site—could not find anyone to prosecute. What was he doing? He must have been a complete galoot or completely hopeless. I do not know why the royal commission would waste its time talking to him about silly allegations, or why the New South Wales Opposition would have me require DIR and WorkCover inspections to take place when inspectors have better things to do than chase after allegations that are seven or eight years old.

Another aspect about this whole saga is that the Sydney Olympics site was built under the Labor Government's industrial laws with a unionised public sector work force, and it was completed on time and under budget, as the Leader of the Opposition would know. Meanwhile the Leader of the Opposition would bring to New South Wales an industrial regime of the type operating in Victoria, despite the Victorian Government having a great deal of difficulty coping with ridiculous strictures imposed by the Howard Government on preparations for the Commonwealth Games. It cannot get anything built. Why cannot the Victorian Government get anything built? Because an industrial relations system based on adversarialism, conflict and the big stick will not work. The New South Wales Labor Government has put in place fair practice and reasonable standards and will ensure fairness and appropriate industrial relations law. It will not be chasing five-year-old allegations.

### MINERALS AND PETROLEUM EXPLORATION

**The Hon. TONY KELLY:** My question is to the Minister for Mineral Resources. What information has been released by the New South Wales Government to promote mineral and petroleum exploration in this State?

**The Hon. EDDIE OBEID:** Again I thank my colleague the Hon. Tony Kelly for his keen interest in regional New South Wales and Country Labor for its continued support for this portfolio. Two weeks ago the New South Wales Government released the largest-ever package of information about our State's minerals. This wealth of new data is now available to potential investors worldwide. The Government is committed to encouraging investment and exploration of our minerals, and has committed \$60 million to investigating this State's mineral resources. To date, 65 per cent of this State has been surveyed using the latest geophysical technology.

Over the past year the New South Wales Government has spent \$5 million on gathering more information about our State's resources and has produced new maps, survey reports, images and CD-ROM data packages. The material gives potential investors a clear picture of the rocks and minerals around Broken Hill, Cobar, Lake Cargelligo, Goulburn, Moree, Braidwood and the New England area. Last financial year this State's minerals industry was worth more than \$7 billion and forecasts indicate that this is likely to increase during the next financial year.

In the era of global investment, high-quality mapping of this State's mineral resources is essential to attract and maintain exploration and investment in this State. The latest release of information includes a substantial program of shallow drilling and geochemical sampling of an area east of Cobar. The new data indicates encouraging results in the Girilambone region. The area has potential copper deposits that we hope are similar to those at the Girilambone mine and the Tritton project near Nyngan.

**The Hon. Duncan Gay:** Don't they write it up phonetically for you any more?

**The Hon. EDDIE OBEID:** Does the Deputy Leader of the Opposition want to spend his time trying to correct me? It is hoped that a new CD-ROM package of geological and geophysical maps and information about the Southern Peel district north of Tamworth will interest potential exploration companies. It is anticipated that new exploration opportunities in this area will involve a search for gold, silver, copper, tin, sapphires and diamonds. Just this week a new \$115,000 New South Wales Government gravity survey began in the Moree area. The survey is gathering more information about the area's potential for petroleum. This is an important investment in the Moree region, which adds to recently acquired aerial geophysical studies of that region.

The discovery of commercial quantities of oil and gas will be good news for Moree and will result in the creation of much-needed jobs, as well as supporting local businesses and families. The Government remains committed to providing the industry with the most up-to-date information. At the same time as the Government

released the information package, a new Internet web site, MinView, was launched. MinView will allow potential investors to check out online geological and exploration titles information. It also provides access to Statewide exploration borehole data, metallic and industrial mineral deposit locations, mineral and coalmine locations and a wealth of technical databases.

The introduction of the new online service means that exploration and mining companies anywhere in the world can more effectively plan their future investment strategies and exploration programs in New South Wales. The Government is making sure that New South Wales continues to attract exploration investment. The release of world-class minerals information and electronic access to that information can only build on the New South Wales Government's reputation as a supporter of exploration and investment.

#### **FAMILY DAY CARE CENTRES GLASS SAFETY STANDARDS**

**The Hon. HELEN SHAM-HO:** I direct my question without notice to the Minister for Juvenile Justice, representing the Minister for Community Services. I refer to the sad incident in which a two-year-old boy died in family day care at Miranda in February this year when he fell off his chair into a plate glass window. Is it a fact that the Department of Community Services has no glass safety standards for family day care homes, in contrast to the strict glass safety regulations for long day care centres? Will she explain the reason why there is a discrepancy? Will she also provide details of the steps that the Government will take, if any, to ensure glass safety regulations for family day care in New South Wales are established?

**The Hon. CARMEL TEBBUTT:** I am sure that all honourable members are aware of the tragic incident to which the Hon. Helen Sham-Ho referred. I do not have details of the specific issues she has raised, so I will refer the question to the Minister for Community Services in the other place and undertake to obtain a response as soon as possible.

#### **EMPLOYEE ENTITLEMENTS**

**The Hon. DON HARWIN:** My question without notice is directed to the Special Minister of State, and Minister for Industrial Relations. What action has he taken to develop and implement a national entitlements top-up scheme in consultation with his State Labor colleagues to fund any difference in outstanding employee entitlements after the application of the General Employee Entitlement Redundancy Scheme in line with the representations of the Transport Workers Union to the New South Wales Labor Council on 9 May?

**The Hon. JOHN DELLA BOSCA:** The issue of unpaid employee entitlements in the event of business failure—whether it is due to company insolvency, bankruptcy, corporate restructure or other artificial avoidance mechanisms—is a matter of ongoing public concern. The last quarter of 2001 saw three highly public corporate collapses. Those examples of corporate collapses have a common theme: The Federal Government has continued to prevaricate on the obligation of employers to pay, and guarantee the full employment of, their workers.

As I said, regardless of whatever discussions occurred between State jurisdictions on this matter, or even between Commonwealth and State jurisdictions, the most critical issue still before us is that of phoenix companies. The only authority that can fix that problem is the Commonwealth. I acknowledge the concerns of the Hon. Don Harwin about discussions that have been taking place between various State jurisdictions on employee entitlements. The present Commonwealth Minister and the previous Commonwealth Minister and I have had a number of discussions on this matter. The specific matter that he talked about pales into insignificance when compared with the important issue of phoenix companies.

#### **CHARLES STURT UNIVERSITY**

##### **DEPARTMENT OF JUVENILE JUSTICE SCIENTIFIC MANAGEMENT ASSOCIATES PROGRAM**

**The Hon. HENRY TSANG:** My question without notice is directed to the Minister for Juvenile Justice. What was the Minister doing in Wagga Wagga when I ran into her on 18 April 2002?

**The Hon. CARMEL TEBBUTT:** I did run into the Hon. Henry Tsang in Wagga Wagga on 18 April, where we were both attending similar types of events. His question gives me the opportunity to talk about some of the activities in which I was involved in Wagga Wagga—activities in which I am sure all honourable

members will be extremely interested. The reason for my visit to Wagga Wagga was to address a graduation ceremony at the invitation of Charles Sturt University. The Hon. Henry Tsang was being awarded an honorary doctorate on the same day that I addressed the graduation ceremony. However, the Hon. Henry Tsang received his honorary doctorate during the afternoon ceremony, whereas I spoke to delegates attending the morning ceremony.

The Department of Juvenile Justice has had a long relationship with Charles Sturt University, which has a specific juvenile justice strand as part of its social work degree and diploma courses. Charles Sturt University asked me to go along and give an address because a number of Charles Sturt University graduates, including some who were in attendance at the graduation ceremony at which I spoke, have gone on to take jobs in the Department of Juvenile Justice as well as a number of other government agencies, such as the Department of Community Services and the Department of Ageing, Disability and Home Care. In addition to the graduation ceremony, I was also fortunate enough to attend the Scientific Management Associates [SMA] program, which has been operating in the Wagga Wagga area since 1994.

A program entitled Scientific Management Associates is currently funded under the Department of Juvenile Justice Community funding program to provide a pre-employment and skills training [PST] and mentor support program. As a result of the 1999 Drug Summit the department received funding to trial the PST program, which has now been adopted by the department and exists in 10 locations across the State. It aims to assist young people exiting detention, or who have had contact with the criminal justice system, to access education, provide life skills courses and access appropriate accommodation. The provider in the Wagga Wagga area is the SMA program. In the first year of its operation, 22 young people attended the program, and 40 per cent of participants returned to school or found employment. A further 40 per cent of participants engaged in prevocational education and training. Of those 22 clients, two young people have engaged in full-time traineeships and three young people have progressed into the Aboriginal education course at TAFE.

The program at SMA seeks to develop client skills of interaction with the community. It sees its role as not just finding young people employment but also assisting young people in developing skills to maintain their job or employment. I was able to extend the recurrent funding of this program via a one-off grant of \$10,000 to enable SMA to purchase computer equipment and software to assist young people studying graphic design. The equipment can be used to develop broader information technology skills as well as skills in multimedia using digital camera and editing software. This equipment, which will enable young people to gain skills with a view to a career opportunity in graphic design, adds to the range of services that SMA is able to offer to young people in the Wagga Wagga area. I thank the honourable member for his question. I hope that he found his trip to Wagga Wagga as valuable and as informative as I did.

#### **TOWED VEHICLES SPEED LIMIT**

**The Hon. JOHN TINGLE:** My question without notice is addressed to the Minister for Fisheries, representing the Minister for Roads. Is the Minister aware of an accident on the Pacific Highway south of Bulahdelah on Sunday in which a vehicle towing a large boat on a trailer in light rain skidded into a tree causing the boat to slide off the trailer and onto the road? The fuel tank which was carried loose in the boat exploded, shattering the boat, spilling fuel onto the road and starting a fire in bush at the side of the road. The highway was blocked for some time while the ensuing fire was put out. Does the Minister agree that such an accident poses a serious danger to other traffic on the road? Will the Minister consider prohibiting the carriage of fuel in loose tanks in a boat being towed? Will the Minister consider reintroducing a statutory speed limit of 80 kilometres per hour for towed vehicles over a given weight?

**The Hon. EDDIE OBEID:** The honourable member asked me an important question. I am aware of the coverage of that accident by the general news media but I am not aware of the details of it, which involved a serious matter of safety. I am sure that the question deserves a detailed answer from my colleague in the other House.

#### **SAWMILL OPERATIONS**

**The Hon. RICK COLLESS:** My question without notice is directed to the Minister for Juvenile Justice, Assisting the Minister for the Environment. Is the Government aware of concerns expressed by commercial sawmill operators that ongoing interference by protesters is threatening the viability of at least one sawmill despite the fact that the sawmills operate in accordance with the regional forestry agreements [RFAs]? What action has the Government taken to educate protesters and the general public about the RFA process and the subsequent economic benefits to local communities to bring an end to this protest action?

**The Hon. CARMEL TEBBUTT:** It is more appropriate for that question to be directed to the Minister for Forestry rather than to the Minister for the Environment. Given that I represent the Minister for Forestry in this House, I undertake to do that and to obtain a response as soon as possible.

#### **DEPARTMENT OF INDUSTRIAL RELATIONS ABORIGINAL AND TORRES STRAIT ISLANDER UNIT**

**The Hon. RON DYER:** My question without notice is addressed to the Special Minister of State, and Minister for Industrial Relations. Will the Minister inform the House what the Aboriginal and Torres Strait Islander Unit of the Department of Industrial Relations has achieved for indigenous Australians?

**The Hon. JOHN DELLA BOSCA:** It is well known that indigenous people face higher unemployment rates. It has also been the case that many indigenous people are reluctant to seek assistance from government agencies. The Aboriginal and Torres Strait Islander Employment Unit in the New South Wales Department of Industrial Relations helps to bridge this gap. Since the unit was established in 1999 it has provided information, advice and referral services to Aboriginal and Torres Strait Islander people. It has also provided advice to organisations on New South Wales industrial law and practice. The unit has developed a telephone hotline, which provides information and advice to more than 1,000 callers on issues such as pay rates, employment conditions, leave entitlements and work practices.

Many of the issues facing indigenous people are complex, relating not only to employment but also to access to community services, housing and health care. The unit works closely with other agencies to facilitate access to other government services, and follows up to ensure that callers receive the support and assistance they need. The unit also produces resources, maintains a prominent Internet presence, produces a newsletter, and conducts workshops and workplace visits across the State.

To date the unit has produced three issues of its newsletter, *Two Rivers*, increasing its readership from 140 for the first issue to 420 over the last year. The unit has visited more than 20 workplaces over the last year, half of which are in regional New South Wales, and conducted several information seminars on industrial rights and obligations. Since the unit's inception, word has quickly spread about the services offered, ensuring that staff are never short of clients. The unit has proved the value of providing culturally sensitive services. Together with other government agencies, and by linking with other departmental initiatives, Aboriginal and Torres Strait Islander employers and employees now have greatly improved access to information, advice and industrial services.

#### **ETHNIC COMMUNITY LIAISON OFFICER PROGRAM**

**The Hon. Dr PETER WONG:** My question is directed to the Minister for Police. Given the success of the Ethnic Community Liaison Officer [ECLO] Program in New South Wales in bringing the community and police closer together, will the Minister inform the House how many ECLOs are currently employed in New South Wales and whether there are plans to increase the number of ECLOs in the future?

**The Hon. MICHAEL COSTA:** I do not have the precise details. However, I will endeavour to obtain them and will advise the Hon. Dr Peter Wong accordingly.

#### **WORKERS COMPENSATION SCHEME COMMUTATION RESTRICTIONS**

**The Hon. GREG PEARCE:** My question without notice is to the Special Minister of State, and Minister for Industrial Relations. What action has the Minister taken to address representations from the Labor Council to review restrictions on commutations under the workers compensation scheme, particularly in relation to self-insurers? Has the Minister given the council an undertaking to make legislative changes to address its concern that the severe restrictions significantly disadvantage injured workers?

**The Hon. JOHN DELLA BOSCA:** No, I have not given any undertaking in relation to relaxing the limitations on commutations. As recently as a couple of weeks ago I received representations from the Labor Council on the matter. I also received representations from a large number of people in the legal fraternity, self-insurers themselves and a number of other people who are concerned about the way in which the restrictions on commutations are operating, as well as a number of individual trade unions and employers.

I must say, however, that I am unimpressed by the representations I received. Indeed, I am concerned that there may be a notion that the commutations will at some point be returned to the workers compensation



system. The optimal system will work without commutations at all, or with only very limited commutations in particular circumstances. As members will be aware, originally commutations were to be used for people who needed a large sum of money to change their life circumstances—for example, to buy a business—and who therefore required to take their benefit all at once. The advantage for insurers was that they had to pay out less money, which in turn reduced their long-term liability. The advantage for employers was that it removed the liability from their books and they were able to wash their hands of the injured worker.

That is the matter that the Government is most concerned about. The practice of paying people out for their entitlements and then washing their collective hands of the responsibility for the welfare of injured workers and their ongoing rehabilitation became the abuse of the commutations system that led to the Government taking the overall view that the system should be abolished or severely restricted, as it did with the workers compensation legislation previously.

I think that is a clear indication of the extent to which in this debate we have focused on workers compensation being returned to a scheme about injured workers, rather than about lawyers, insurance companies or employers. The scheme is about compensating injured workers, rehabilitating them and getting them back to work—which is what the original workers compensation scheme has always been about—and, where that is not possible, making some monetary contribution for permanent impairment and so on.

Commutations that have a limited role in a system had been widely abused as a means of employers and insurance companies washing their hands of their responsibilities to employees. I have been unsympathetic to that. There are instances in which commutations can help to provide an employee with the opportunity for a life-changing initiative. Therefore, looking at tightly controlled access to commutations is a matter that the Government will continue to be advised on, and it will continue to listen to representations, facts and evidence. As I have said, the Government remains unimpressed by the current representations.

#### **NSW BLUE LIGHT INC.**

**The Hon. JAN BURNSWOODS:** My question without notice is to the Minister for Police. Will the Minister update the House on the operation of NSW Blue Light activities?

**The Hon. MICHAEL COSTA:** The NSW Blue Light movement—famous for its discos—allows police and young people to interact in a non-threatening environment.

**The Hon. Michael Gallacher:** Do you know where it started?

**The Hon. MICHAEL COSTA:** I went to a few, a long time ago. The movement helps to break down barriers between police and young people—which itself is an important crime-fighting tool. Following discussions with the chief executive officer of the NSW Blue Light movement, the Government has provided financial assistance so blue light activities stay on track. Funding in the amount of \$60,000 will assist the 41 branches of NSW Blue Light to conduct traditional discos, dance parties and movie nights.

**The Hon. Michael Gallacher:** I hope they don't spend it all at once.

**The Hon. MICHAEL COSTA:** That is all they asked for. I am advised that the blue light movement organises more than 500 events a year across New South Wales, most in regional or remote parts of the State, including Ballina, Barraba, Deniliquin, Tenterfield, Tibooburra, West Wyalong and Wilcannia. In these communities, blue light activities are often the only organised form of youth entertainment. They play a direct role in steering young people away from antisocial behaviour.

This plan means our police and volunteers can continue their fantastic supervised entertainment for young people. The chief executive officer told me, for example, that there are only around 18 boys and girls in the town of Tibooburra, but their local blue light organisers ensure they have fun, local entertainment and, more importantly, social contact with their police. I hope the blue light movement can continue to help young people develop respect for police and the law. This grant to NSW Blue Light comes after the Government's earlier extended commitment to the police and community youth clubs movement. Together, these organisations provide a safe and fun outlet for New South Wales youth.

#### **NEW PRISON SITE**

**The Hon. PETER BREEN:** My question without notice is to the Special Minister of State, representing the Minister for Corrective Services. Will the Minister inform the House about plans to build a fourth new prison in New South Wales to accommodate the projected prison population of more than 9,000

inmates? Will the Minister confirm that the department has recommended locating the prison at either Nowra or Campbelltown, both Labor electorates? Can the Minister explain why both local members have rejected the idea of the establishment of a new prison?

**The Hon. JOHN DELLA BOSCA:** The honourable member has asked a very comprehensive and important question. I am sure the Minister will have a simple answer to it. I will ask the Minister to supply the answer at his earliest convenience.

### CALL CENTRE OCCUPATIONAL HEALTH AND SAFETY

**The Hon. CHARLIE LYNN:** My question is to the Special Minister of State, and Minister for Industrial Relations. What action has the Minister undertaken to address calls by the Finance Sector Union of Australia for his Government to introduce an occupational health and safety code of practice for the call centre industry, particularly given the Labor Council's request for a meeting with the Minister, as reported in the Labor Council minutes of 18 April?

**The Hon. JOHN DELLA BOSCA:** Someone has been reading the Labor Council minutes. That is admirable. I am an avid reader of the Labor Council minutes. I think I read the Labor Council minutes more closely than most former secretaries of the council. The call centre industry is one of the new industries and one of many opportunities for employment in the new economy. Occupational health and safety is of critical interest to the Labor Council of New South Wales, to the Finance Sector Union and to this Government. As I said today at the lung bus launch, there is no obligation more important for a Labor Government than ensuring and securing the occupational health and safety of its own employees and employees across the State.

Like all employers, call centre operators have minimum statutory obligations under the occupational health and safety legislation to ensure the health and safety of their employees. To fulfil their obligations employers should plan for work to be done safely and have systems in place to identify and deal with hazards that arise. Occupational health and safety hazards that may be relevant to call centres include noise exposure—the so-called acoustic shock syndrome; cramped working space, which occasionally affects workers in the call centre industry; repetitive or overly repetitive work systems; and occupational overuse syndrome.

I am aware that the acoustic shock issue has been receiving a lot of attention recently. WorkCover is carefully monitoring developments in this regard across the world, including examples of successful litigation in the United States of America and the United Kingdom, and regulatory models being used in other jurisdictions. WorkCover is also advising employers to take a risk management approach to prevent the possibility of acoustic shock and other injuries associated with call centre work. WorkCover's New South Wales business services industry reference group, which is made up of representatives of the Finance Sector Union and the Australian Services Union as well as various employers involved in the banking, insurance and similar industries, has identified health and safety in call centres as a key issue of concern.

The industry reference group includes representatives from a number of industry sectors in which call centres have become more prevalent, as well as members with specific expertise in call centres. At present, the main focus of the industry reference group is on the development of a fact sheet outlining a risk management approach to health and safety in this industry in accordance with the new regulations. As part of this approach, the group is also monitoring developments and analysing existing research into specific hazards, such as noise exposure, including the condition described as acoustic shock.

WorkCover is also represented on a working party on call centres under the auspices of the National Occupational Health and Safety Commission's prevention committee. The working party is exploring approaches to gathering and evaluating data, the possibility of conducting a benchmarking study and the production of best practice guidance material for employees. In addition to its national environment, WorkCover is participating in a working party convened by the New South Wales Office of Information Technology which has been tasked to develop and refine operational guidelines for all public sector call centres.

WorkCover is providing expert advice to the working group on occupational health and safety issues of relevance to call centre work, and the relevant union—the Public Service Association of New South Wales—has been involved in all these discussions. I am also aware that the Australian Council of Trade Unions [ACTU] call centre unions group has been very active and has released a call centre charter, a minimum standards code for Australia, which forms the basis of the Labor Council's code. [*Time expired.*]

**The Hon. CHARLIE LYNN:** I wish to ask a supplementary question. The Minister's response was a fraction broader than the answer I was expecting. I wonder whether the Minister has met with the Labor Council or the union to discuss the specific issue of call centres? If not, why not?

**The Hon. JOHN DELLA BOSCA:** As I was about to say, the ACTU call centres code forms the basis of the Labor Council code, with some additional principles that the Labor Council of New South Wales is concerned about. This matter has been on the agenda on a number of occasions when I have met with affiliates of the Labor Council and with the Labor Council. As I was saying in the extensive background I was providing in answer to the honourable member's question, this issue has been discussed by the WorkCover industry reference groups, the Department of Industrial Relations, my private office and me, with a variety of affiliates, the Labor Council and WorkCover. The eight associated unions that are concerned about this issue will be continuing to provide advice and assistance, and when appropriate the Government will obviously be interested in finalising any relevant agreements. We remain absolutely ready to investigate any complaints about exposure of call centre workers to occupational health and safety risks.

#### **KATOOMBA HOSPITAL MIDWIVES MEDICAL INDEMNITY INSURANCE**

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** My question is to the Minister representing the Minister for Health. Will the Minister give an assurance that midwives working at the soon to be established midwife-led maternity unit at Katoomba hospital will be insured for medical indemnity before the program starts?

**The Hon. Michael Costa:** Ask that useless Federal Government.

**The Hon. JOHN DELLA BOSCA:** I wish I could give an assurance to the Hon. Dr Arthur Chesterfield-Evans. As my colleague the Minister for Police has interjected, it is that useless Federal Government that has failed in its responsibilities for medical indemnity. I will get an answer to the honourable member's question from the Minister for Health as soon as practicable.

#### **RAILWAY STATION ACCESS**

**The Hon. JOHN JOBLING:** My question is to the Assistant Treasurer. Will the Minister advise the House whether the Government has allocated funding for easy access upgrades at Burwood, Croydon and Homebush railway stations? If funding was allocated, has he investigated why these upgrades have still not been completed?

**The Hon. JOHN DELLA BOSCA:** I frequently travel on the train that travels through at least two of those stations.

**The Hon. John Jobling:** And they have awful access, don't they?

**The Hon. JOHN DELLA BOSCA:** I do not get on and off services at those stations. I thank the Hon. John Jobling for drawing to my attention the condition of those stations. Although the question was addressed to me as Assistant Treasurer, the honourable member will know that neither the Treasurer nor I would investigate every line item. I am sure the Minister for Transport will be happy to provide the House with a detailed response to the honourable member's question.

#### **LAKE MACQUARIE COMMUNITY DRUG ACTION TEAM**

**The Hon. JOHN HATZISTERGOS:** My question without notice is directed to the Special Minister of State. Will the Minister inform the House of any recent community drug action initiatives?

**The Hon. JOHN DELLA BOSCA:** It was difficult to hear the honourable member's question as the Opposition is drawing attention to the sartorial elegance of the honourable member, and I agree with the comments expressed. Obviously the Hon. Charlie Lynn is bucking for promotion. He too is adopting the Minister for Police's style, which, despite the best attempts of our friend and colleague the Leader of the Government, is gradually taking over both the Government and Opposition benches. I am sure it will spread to the crossbench sooner or later. Perhaps not.

I will provide an update on the work of one of our newer community drug action teams. Last Friday I was pleased to have been asked to officially launch the Lake Macquarie Community Drug Action Team's drug action plan and present the team with its official endorsement certificate.

**The Hon. Dr Brian Pezzutti:** That's not on the Central Coast.

**The Hon. JOHN DELLA BOSCA:** That is a very well informed observation. Sometimes I go to places other than the Central Coast. The Hon. Dr Brian Pezzutti goes only to the North Coast, but I go to other places.

**The Hon. Dr Brian Pezzutti:** I go to Woy Woy.

**The Hon. JOHN DELLA BOSCA:** What are you doing in Woy Woy?

**The Hon. Dr Brian Pezzutti:** Keeping an eye on you.

**The Hon. JOHN DELLA BOSCA:** I can look after myself—do not worry about that. The Lake Macquarie Community Drug Action Team, or CDAT, was established following a community consultation process which examined the impact of drugs on the local community. The process was largely driven by Lake Macquarie council, which had been a key participant in the formation of this local group and in the development of the drug action plan. Members of the Lake Macquarie Community Drug Action Team include youth services, refuges, the Aboriginal Health Service, Narcotics Anonymous, Family Drug Support, the Swansea Chamber of Commerce, Mission Australia, church groups and a number of local residents with an interest in the drug issue.

The centre has also received support from State and Federal government agencies such as Centrelink, the Probation and Parole Service, health, housing, education and, of course, the local police. I am also pleased to note the involvement of State and Federal members of Parliament, in particular the master of ceremonies for the occasion, the honourable member for Swansea, Mr Milton Orkopoulos. The Lake Macquarie Community Drug Action Team has identified five key themes in its place: community perception and safety, health, education, services, and family and community drug impact issues. Under each theme, the team has developed separate issues and strategies. The community drug action team is focusing on achievable outcomes. The provision of accurate and credible information to young people and the community is one such outcome that the team believes is important. Providing support to families with a drug user is another important priority for the team.

Despite the fact that the team has been around for only a short time, it has already engaged local high schools. As with many communities, binge drinking among young people has been identified as a key issue to be addressed, and education and activities have been centred on this topic. Schools and the local community were also engaged in a competition to design a logo for the community drug action team as a way of involving schools and young people in the team's work. While the winner was a community member, two students won individual awards and Blackall Park Primary School won the Schools Participation award. The school was represented at the launch by some of its fine students. I congratulate the Lake Macquarie Community, its council and mayor John Kilpatrick, and all those involved. I look forward to hearing of the team's future work.

If honourable members have further questions, I suggest they put them on notice.

#### **HIH INSURANCE AND LAWCOVER PTY LTD**

**The Hon. JOHN DELLA BOSCA:** On 9 May the Hon. Peter Breen asked the Treasurer a question without notice regarding HIH Insurance Company. The following response was provided:

In mid 2001, the Attorney General wrote to the Chairman of the Australian Securities and Investments Commission [ASIC], in connection with the arrangements that were made between LawCover Pty Ltd and HIH Insurance, for the provision of solicitors' insurance from June 1998 until June 2001. The Attorney General indicated that suggestions had been made to him that Mr Nicholas Meagher and Mr Ron Heinrich, former directors of LawCover Pty Ltd might have failed to disclose to LawCover material interests in connection with the contract made between LawCover and HIH. The Attorney requested that ASIC take appropriate action in relation to these allegations.

ASIC has replied to the Attorney indicating that ASIC has reviewed the complaint. It has obtained and examined further material on this matter. On the basis of the information it has received ASIC does not consider that there has been any breach of the Corporations Law, and accordingly does not intend to take any further action in relation to the matter.

**Questions without notice concluded.**

*[The President left the chair at 1.03 p.m. The House resumed at 2.30 p.m.]*

#### **DRUG SUMMIT LEGISLATIVE RESPONSE AMENDMENT (TRIAL PERIOD EXTENSION) BILL**

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

**Motion by the Hon. Ian Macdonald agreed to:**

That standing orders be suspended to allow the passing of the bill through all of its remaining stages during the present or any one sitting of the House.

## BUSINESS OF THE HOUSE

### Suspension of Standing and Sessional Orders

#### Motion by the Hon. Ian Cohen agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 77 outside the Order of Precedence, relating to the disputed claim of privilege on papers on the Mogo charcoal plant, be called on forthwith.

#### Order of Business

#### Motion by the Hon. Ian Cohen agreed to:

That Private Members' Business item No. 77 outside the Order of Precedence be called on forthwith.

### SOUTH COAST CHARCOAL PLANT

#### Motion by the Hon. Ian Cohen agreed to:

- (1) That the report of the Independent Legal Arbitrator, Sir Laurence Street, dated 28 May 2002, on the disputed claim of privilege on papers on the Mogo charcoal plant, be laid upon the table by the Clerk.
- (2) That on tabling, the report is authorised to be published.

**The Clerk** tabled, according to a resolution of the House, the report of the Independent Legal Arbitrator on the disputed claim of privilege on the Mogo charcoal plant.

### CIVIL LIABILITY BILL

#### Second Reading

#### Debate resumed from an earlier hour.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [2.35 p.m.]: Earlier I said that I wanted to correct the record in relation to comments made by the Premier in the Legislative Assembly last week reflecting on my position on this legislation. I do not know if I can express the same degree of sarcasm and cynicism achieved by the Premier when he delivers tirades in the lower House that are mostly inaccurate. On 28 May he said:

The *Trangie Advocate* of 22 May landed on my desk—a newspaper never to be missed. The *Trangie Advocate* never publishes an edition without the Stasi depositing it on my desk for careful perusal and examination. I wonder what the people of Trangie would think, knowing that they have not had a paper for some years. There is no such paper as the *Trangie Advocate*. The next day the Premier said:

Yesterday I quoted what one of its shadow Ministers, Mr Duncan Gay, said in the *Trangie Advocate*. Today let me quote what he said in the *Narromine News*.

There is a *Narromine News* but, as the honourable member for Barwon stated in his point of order, there is no such newspaper as the *Trangie Advocate*. What did the Premier then do? He went on to give me the biggest pasting he thought he could. On 28 May his famous quote of me on this important issue was, "We are not going to play politics on the issue". He took it to the press gallery but it did not get a run. He was so disappointed that his boy Walter slipped it into his speech on 29 May. The Premier again said that I had said we would not play politics and that that is what the Opposition thought. The Premier should get real. He should listen to his own advice. He disappointed a lot of people when he made an absolutely appalling political speech that went down like a lead balloon at the Shires Association meeting this week. He should take heed of what he quoted me saying, and he should stop playing politics on this important issue. I stand by my comments in the *Narromine News*. My comments were published in an extract from a 1½-hour meeting with the local council, and they were appropriately reported in that way. The Premier should not have taken what I said out of context, because he tried to do that and failed.

At least once a week I hear more tales about the impact across New South Wales of increased insurance premiums. Many local government representatives who have expressed their concerns about this issue have contacted the Opposition. Councils effectively have been hit with a double whammy in this crisis, with public liability problems and the effort of securing suitable coverage. Councils have also been faced with the decision

of the High Court last year to remove the long-standing nonfeasance immunity previously afforded them. Basically, nonfeasance immunity for road authorities meant that councils responsible for road maintenance and road works could not be prosecuted for damages incurred as a result of failing to maintain infrastructure.

A previous speaker said that this problem has arisen only recently. I remember that the Hon. Jeff Shaw, when he was the shadow Minister for Local Government for the then Labor Opposition, said in this Chamber that Labor's local government policy was to cap public liability. This is not a problem that has arisen since the Hon. Malcolm Jones came to this Chamber—although there have been other problems since he came here! This problem has been around for a long time. It was an issue before the last election. It is basically a State issue that the Carr Government has let go through to the Federal Government in most instances.

Both Coalition policy and Labor policy at the last election sought to cap local government public liability—not that the Government has done anything about the issue since that time. The decisions by the High Court in both *Brody v Singleton Shire Council* and *Ghantous v Hawkesbury City Council* have the potential to impact on every council, not only in New South Wales but right across Australia. The immunity previously afforded to highway authorities has been removed. That is an issue that needs careful attention. At the time of the High Court decision the President of the Shire's Association, Mike Montgomery, stated:

Our task of securing public liability insurance, already a difficult and expensive one, will become impossible as more underwriters withdraw from this field and premiums skyrocket.

Today, councils right across metropolitan, rural and regional parts of New South Wales are facing hard decisions—decisions on whether to close or remove equipment from playgrounds and recreation areas, decisions on whether to close public facilities, decisions on whether to remove park benches from under overhanging tree branches, and decisions on whether to allow council premises to be used for public functions. Put simply, councils are looking to minimise their possible exposure to any claim that may result in their facing massive claims through the courts system. Many claims will eventually have to be paid, and that will impact on the ability of local government to provide services to their local community. I draw the attention of honourable members to an excellent submission prepared by the Local Government Association of Queensland. That submission, entitled "Limiting Local Government Liability Exposure", contains the following paragraph in the executive summary. The Hon. Lee Rhiannon said earlier that other States are doing much better than New South Wales in many respects. This is one of those areas. I quote from the submission:

The public liability exposure profile of local government is unique. Leaving aside the special cases of third party motor vehicle liability and workplace accidents, there is no other sector which, as defendant in a group sense, has a comparable level of exposure.

The Queensland report is comprehensive and, while it relates specifically to the situation north of the border, it contains some sensible suggestions for reform that may have wide application. I commend the report to honourable members and to the Government as a good reference point for this debate and further reform. The statement from the Local Government Association of Queensland sums up exactly why we, as responsible legislators, must come up with a workable solution to this issue—a solution which, while protecting the needs and rights of the genuinely injured, also protects the ability of local government bodies to sustain a sound financial base and serve their communities.

Honourable members may be aware of the recent decision taken by a North Coast council to resign as trust manager for about 25 Crown reserve trusts in its local area. Kyogle council—which I believe is a responsible council doing a great job for the local community—has advised the Minister for Land and Water Conservation that it is resigning as manager of the trusts because of an unacceptable public liability risk. Kyogle Mayor Ernie Bennett summed up the council's position in a media release issued after the decision was taken. He said the decision was taken because of the possibility of:

... someone passing through the Council area, not a ratepayer, slipping over and breaking his or her neck in the shower at the local caravan park. That type of accident could happen in their own home, and if it did, they would be liable. But, if it happens in the Kyogle Caravan Park, which is a Crown Reserve managed for the State Government, Council, and therefore the ratepayers, may see a successful claim made against Council.

The council took advice from its solicitors and senior counsel in relation to the decision. Part of that advice was paraphrased in a report to the council which stated in part:

A very strong motivation for Council to resign as trust manager of these Reserve Trusts is to mitigate potential legal liability arising from that position. Council's solicitors agree that Council has significant potential liability because it is the "hands on" entity responsible for what is done or not done on the land. If the danger is created or allowed to continue, and a person is injured, it will be Council who is responsible because Council has the ultimate control over what occurs on the land.

On the other hand, Senior Counsel's advice is that Members of a Trust Board, when the Trust is managed in that way, are liable to the value of the Trust assets. That immunity, given to Members of a Trust Board, does not apply to a corporate manager, such as Council.

This is a disturbing situation for a council to find itself in. It is not the fault of the council that this issue has arisen. The 25 Crown reserve trusts from which the council has resigned include a caravan park, two showgrounds, a cricket ground and a host of public reserves, community halls and community centres. Obviously, this is a decision that has not been taken lightly. I bring it to the attention of the House today to illustrate the potential impact that escalating premiums and increasing numbers of claims are having on councils. The Sutherland Shire Council indicated in a *Daily Telegraph* article two weeks ago that it was receiving several public liability claims per week. Of course, we are only too well aware of the case of Waverley Council following the awarding of more than \$3 million to a man who dived headfirst into a sandbank and then made a claim against the council because it was negligent, so it was claimed, in its management of Bondi Beach.

The peak representative body for local government in New South Wales, the Local Government and Shires Associations, has called for a national compensation scheme to protect councils from substantial public liability claims. Local Government Association President Peter Woods has claimed—and it is not very often that Peter Woods and I agree on anything, but in this case we do—that personal injury claims could bring about the collapse of some councils unless the situation is resolved. His comments are correct in the context of the impact that claims may have on councils, but I am not sure about the need for a national scheme. The first step, as I indicated earlier, must come from the States. That is, in part, why we are here today.

This bill is stage one of the Government's much heralded response to the public liability crisis, but the Coalition is concerned that the legislation we are discussing today does not actually protect community groups, local government—on all of the things that the Premier spoke about at the recent local government conference, and many of the matters I mentioned earlier in my speech—sporting groups, incorporated associations or good Samaritans. The bill does not address outrageous claims and leaves a degree of exposure which at this stage is unacceptable. There is no reason why the Parliament should wait until September for the important stage two reforms. Those reforms could and should be examined now. We are here for another three weeks. The Leader of the Opposition yesterday, at a meeting with the Local Government and Shires Associations, invited the Government to withhold that part of the stage two reforms that it is having trouble with and bring on the rest of the reforms for debate now. We do not need to wait until September to remove that insecurity.

As expected from the Government side of the House, there has been a consistent scare campaign about the Coalition's position on this legislation. The Premier claims that the Coalition is intent on gutting the bill and has threatened to invoke a meeting of managers of both Houses of Parliament to break the deadlock. What a shame that someone who advises the Premier forgot to tell him how that process works. The Premier got it wrong. Putting that aside, I reiterate what has been said by my colleagues in this Chamber and in the other place: The Coalition is not seeking to derail or weaken this bill. We are trying to resolve the creation by this legislation of two classes of citizens in New South Wales: those injured by the Crown and those injured in other circumstances, somehow a lesser class of people.

The retrospectivity clause of the bill allows people who notified the Crown before 20 March of a claim against the Crown to bring proceedings under existing law, provided they file a claim by 1 September or when their injuries stabilise. However, equality is not offered to anyone who has a claim against an insurance company. The Coalition will seek to amend the bill so that all claimants who have notified a claim by 20 March 2002 and who have commenced proceedings by 1 September 2002 will be covered under the current public liability scheme. There is no reason why a person who lost an arm in a malfunctioning door of a government bus should be treated better than his or her cousin who lost an arm in a malfunctioning door of a private bus. This is a matter of equity and balance.

When the Premier exhorted local government to take control and not let the insurance companies or the lawyers take control he forgot about people—he forgot that the injured person will be someone's mother, father, son or daughter who may have had the misfortune to lose a limb in a private bus, not a government bus. That is all the Coalition is trying to fix, but Government members are running a slur campaign against the Coalition because of it. I think the conduct of Government members is pretty ordinary, yet I know that if given half a chance some of them would not be adopting that position. Basically, when it is all boiled down, that is what the Government is trying to do. If that is not so, they should tell me. The Government's advisers are in the lobby. I am sure that if they believe I am misrepresenting the position they will certainly let me know.

Clause 9 of the bill relates to awards of personal injury damages and excludes an award where the fault concerns an intentional act done with intent to cause injury or death, or is a sexual assault or other sexual misconduct. This clause means that people who are seriously injured by criminal activity will not have their

award limited by this bill. Clause 12 limits damages, past economic loss, future economic loss or the loss of expectation of financial support to no greater than three times average weekly earnings. Clause 16 establishes a threshold of \$350,000 for damages for non-economic loss. Clause 21 relates to actions for the award of personal injury damages when the fault that caused the injury or death is negligence. A court cannot award exemplary or punitive damages.

The bill inserts a new section 198D in the Legal Profession Act that sets the maximum costs for claims of up to \$100,000 as the greater of \$10,000 or 20 per cent of the amount recovered by the plaintiff. The provision has been extended to defendant lawyer's costs and it will be the greater of \$10,000 or 20 per cent of the amount claimed by the plaintiff. So much for the Government's claim to be limiting lawyers! Earlier I cited a report prepared by the Local Government Association of Queensland. In conclusion, I will refer to another passage of that report. When referring to the potential exposure of local government to public liability claims, the report stated:

Every single member of the community (leaving aside those very few who never venture outside their own front door) walks or drives on local government controlled land and/or makes use of at least one local government service every day of their lives. Councils therefore are directly involved in every aspect of a typical person's daily activities. Local government is believed to be the only industry sector which impacts on the every person's business and personal life in such a significant manner.

That is exactly the crisis that needs to be resolved. As the shadow Minister for Local Government, my concern is that, without substantive reform, councils will continue to be exposed to claims at an unprecedented level. As I said earlier, this bill represents stage one of the Government's response to this issue. There is no foreseeable reason, apart from the Government's apparent desire to obtain maximum exposure by continually criticising the Federal Government, for withholding the bulk of the stage two reforms until September. As members of Parliament we have a responsibility to consider this issue as quickly as possible. The challenge for the Government will be to fast-track stage two before the public liability issue impacts any further on New South Wales.

**The Hon. GREG PEARCE** [2.56 p.m.]: It is a great shame that honourable members are debating this bill in the context of a crisis that has been whipped up in large measure by Premier Bob Carr.

**The Hon. Amanda Fazio**: That's rubbish!

**The Hon. GREG PEARCE**: World events, including the collapse of HIH Insurance, have brought to the fore the significant problems that are now being faced in relation to public liability and the accident compensation regime. But in New South Wales the Government has so mismanaged the public liability and accident regime in its period of office that this State was facing a crisis anyway—a crisis that is totally the result of the mismanagement of Premier Bob Carr and his Ministers. The mismanagement was evident in the first instance in relation to motor accidents. The motor accidents scheme reached the point of being so far out of control that levies had to be imposed. Premier Bob Carr hit upon a formula for reform that could best be described as smack those who have been injured and who need compensation, and bash those who are at the fore and who can be blamed for the problem.

The response of the Government to the motor accident problems is again evident: cut the rights of the injured, cut the rights of those who are entitled to compensation, hope that premiums will fall by reducing those rights and compensation, and bash someone like the lawyers—someone that the media will enjoy spinning along with. A similar crisis occurred in relation to workers compensation. On numerous occasions honourable members have referred to the workers compensation crisis. The Government has allowed the workers compensation scheme to deteriorate to the stage that unfunded liability is more than \$2.5 billion and is continuing to blow out. The Government has made a number of attempts—on some occasions, misguided attempts—to address the crisis. In 1998 the Government brought in a policy of privatising workers compensation and at the same time it encouraged commutations. Last year privatisation and commutations were removed, and workers' rights were diminished. After all that, including the famous episode in which Premier Bob Carr gave his union mates the two-finger sign outside Parliament House, we still have no proper response to the crisis in workers compensation.

We also have a crisis in home warranty insurance and medical negligence insurance—issues that any competent and responsible government would have dealt with a long time ago. Unfortunately, all we have today is a Government that is committed to spinning out headlines; a Government that is totally incompetent when it comes to managing issues that impact on people who are injured and who are suffering. These issues also impact on the competitiveness of this State and on this State's financial health. The major concern to which the



Opposition wishes to draw attention in this debate is the Government's attitude to the retrospectivity of the legislation and the fact that, effectively, the Government is trying to create two classes of citizens who will be impacted upon in a different way. As all honourable members would know, the result of that will be windfall profits to insurance companies. We do not believe that that is fair, and it should not be supported.

The other issue that is of great concern to us was alluded to by the Deputy Leader of the Opposition. Mr Carr, for base political reasons and in order to wring every headline he can out of this crisis, is holding off on the real reform until perhaps September. Who knows what will happen in September? Instead of dealing with the real issues relating to local government, community groups, sporting clubs, small businesses and all the other people who need protection and assistance in this major crisis, the Premier is intent on spinning out every last headline he possibly can. The Premier knows exactly what he is doing. Each day in question time he raises the spectre of community groups and sporting clubs and he refers to the impact that this issue is having on the Local Government and Shires Associations. He talks about Netball Australia and about the Wellington village fair.

This Premier is intent on half-truths which enable him to wring out and recycle every headline that he possibly can. The Government's approach to these reforms and its approach to all other issues of public liability and accident compensation are fundamentally flawed. The Government wants to allow mismanagement to continue. Instead of coming forward with serious and well thought through reforms, it has a heavy-handed approach of depriving people of compensation, attacking those who are in the system and attempting to make what we have at the moment work as a system. The Government's record in relation to the WorkCover deficit and medical negligence accidents is disgraceful. In addition, shady accounting and fudging practices go on in relation to the WorkCover deficit, to which I referred earlier. There is a great deal of agreement on the elements of a good civil liability package. This issue was summed up by the *Australian Financial Review* in an editorial entitled "Opinion" earlier this week. The editorial states:

The aim should be to rid the system of trivial claims that soak up a disproportionate share of legal costs, make it harder for those who voluntarily take part in inherently risky pursuits to win damages, and provide the best possible care for catastrophic accident victims, no matter how they are injured.

That is a good summary of what we expect to occur. There should not be any reason for the Government to delay dealing with those issues until September. The Premier, Mr Carr, misled the Parliament and the people in this State in relation to the retrospectivity of this bill. We, as a matter of policy, would normally not wish to support retrospective legislation. The Premier claimed that the usual reason for permitting retrospectivity is to date the operation of the bill to the date on which he supposedly announced the changes. In doing that the Premier repeatedly misled the Parliament and the people of this State. Even yesterday, 4 June, he said in question time:

... it is common to backdate legislation to the day the Government announced its intentions. I announced here on 20 March that this is what we were going to do. I said that the legislation, when it is introduced, will have force back to 20 March.

That statement was made by the Premier in question time in the other place on 4 June. I have with me the statement that the Premier made. Contrary to what he said, he did not say—as he said in question time yesterday—"I said that the legislation, when it is introduced, will have force back to 20 March." He lied about that, but that is something that we have come to expect from this Premier, who is driven by the spin and who has no real concern about the practices and the dignity of this Parliament. He does not have the integrity to tell the truth when he is talking about his intentions in something as important as this legislation. Some other issues must be addressed in the second stage of this legislation. I hope that the Government will address those issues—in particular, the issues of fraud and rorts and, worse than that, practices which I note are encouraged by the Minister for Police. The Minister for Police encourages his fellow workers to effectively bludge on the system. That is a great problem that we face in this area as well as in many other areas of social security. I hope that the Government will make the real changes that are necessary to address the crisis in this State as soon as possible.

**The Hon. RICHARD JONES** [3.07 p.m.]: There is no doubt that civil liability insurance is in a state of crisis in this State. The Government must urgently address this problem. I had this issue brought to my attention, as did other honourable members, by people in the country who are devastated about the fact that even small local shows cannot go ahead. Art shows and local shows that have been held for some years have simply been cancelled because they cannot get insurance. I am glad that the Government acted fairly swiftly on this issue. Regrettably, we have to make some hard decisions in relation this issue and some people will miss out. However, if some people do not miss out the bottom line is that the entire community will miss out. So we must address this issue.

The Government has done that in a reasonably compassionate way. It could have introduced much more severe legislation. I believe that insurance companies wanted a much more severe outcome than is evident in this legislation. In a sense, this legislation is a halfway measure. It will bring premiums down—we do not know by how much—but when more insurers who have been driven out of the market by losses come into the market there will be more competition. It may not happen immediately, but it will happen. Local art shows, flower shows and other events that have been held—events which could not get insurance at all or because premiums were so high—will be able to get insurance when the legislation is passed and when insurance companies have the right message that they can go into the market with a reasonable degree of safety and with the hope of making some profits, which is not what they have done in the past year or so.

In relation to personal injury claims this bill sets the maximum award for economic loss at \$350,000. In addition, no damages will be awarded unless the severity of the non-economic loss is at least 15 per cent of the most extreme case. For loss of earnings the maximum is set at three times average weekly earnings. The bill also limits the costs recoverable by plaintiff and defendant lawyers in claims below \$100,000 to \$10,000, or 20 per cent of the total, whichever is recoverable. The bill makes it professional misconduct for lawyers to act where there are no reasonable grounds for believing a claim or defence has reasonable prospects of success. As we all know, the legislation is retrospective to 20 March 2002.

A significant level of concern has been expressed in the community about escalating public liability premiums. Everyone is in agreement that premium rates must be maintained at a reasonable level that allows, for example, local sporting clubs, councils and small businesses to have the appropriate level of insurance at reasonable cost. Earlier this year, the soaring cost of public liability insurance forced the cancellation of the Tilba festival, which was due to be held on Easter Saturday. The Tilba community festival was started more than 20 years ago. The main street is closed off for the day and is filled with markets, music, people and colour. Never had the festival had an insurance claim made against it, yet the insurance costs had increased by more than 600 per cent a year, from \$1,100 to \$8,000, which is absolutely ridiculous. The GIO would not renew the festival's insurance, and the cheapest quote it could find amounted to two-thirds of the festival budget.

The rising cost of insurance has forced the cancellation of other small town fairs and festivals. In addition, pony clubs have been shut or are facing closure, sporting events are threatened, and the commissioning of public art works, murals and sculptures, as well as community art workshops for the disabled and seniors, have been delayed. The annual Wollongong Sea, Food and Sail Festival was cancelled because organisers could not get public liability insurance. The festival traditionally raises thousands of dollars each year for charity. This year the organisers could not even get a quote for insurance, despite contacting three brokers. Thus, valuable tourism opportunities were lost and community charities such as the Illawarra Crippled Children's Society did not receive any benefit.

People in regional and rural New South Wales have often turned to small-scale tourism such as art and cultural fares as a way to ease the financial pressure and to promote social wellbeing. Regional Arts NSW says that the show-stopping impact of the premium rise has taken the heart and soul out of many communities. The organisation's public liability insurance premium has increased by 880 per cent on its 2001 premiums. Regional Arts NSW, regional arts boards, and their 150 affiliated arts and cultural groups cannot afford such increases. They are small volunteer-run or not-for-profit organisations. Most would face closure with an increase in the cost of their insurance cover of even 100 per cent.

I shall place on record a list of festivals, fares and parades that had been cancelled or postponed as at 15 March 2002. It is why I support the legislation and why I believe it most urgent that it be passed intact. On the far North Coast, the Ocean Shores Arts Festival volunteer-run drawing classes in scout halls, which have been running weekly for three years, have been cancelled. The Lismore Arts Council lantern parade workshops were cancelled, as was the parade festival launch. The Lismore Arts Council work for the dole project was cancelled. The Lismore Arts Council membership drive was postponed. The Lismore Arts Council workshop space was closed. The Ballina Arts and Crafts Centre raffle ticket selling was cancelled.

On the mid North Coast, the Valley Community Arts gallery space was closed. The Nambucca Valley Arts Council valentine's night party fundraiser was cancelled and its Gael Force Erin Irish music and dance performance was postponed. The Valley Art Group's Stronger Gallery was closed. A cappella group performance during Senior Citizens Week was cancelled. A tour of an Irish group performance is likely to be cancelled. The Dorriggo Arts Council's major annual event, Easter Mountain Arts Exhibition, is likely to be cancelled. The Bowraville Arts Council's half-million dollar infrastructure project is on hold. The Bowraville Arts Council annual general meeting was cancelled. The Regional Arts Board work for the dole public art project was cancelled.

In the north-west, the following Regional Arts Board's Arts North West events are on hold: regional projects valued in excess of \$300,000; the Living in Harmony project, a \$50,000 event; and the Musica Viva workshop series, affecting nine centres and performances. The Glen Innes Arts Council's cinema operation was cancelled, resulting in the loss of \$2,000 in income. Five arts councils' Artstart youth arts workshops have been postponed. The Gunnedah Arts Council's touring production which was scheduled for late February was cancelled. The Inverell Arts Society gallery was closed. In the south-east, the Arts Council of Eurobodalla Congo Music in the Park was cancelled. At the Olympia Theatre, all films, live stage performances and meetings were cancelled, and the future film program is likely to be cancelled. The Candelo Music Society cancelled two concerts. The Performing Arts Network workshops were cancelled. The Regional Arts Board's boys' dance workshop is now held in association with a private studio to ensure cover.

In the Central West, Stories of the Central West, a Regional Arts Fund project, are on hold. The Blayney Arts Council's Easter exhibition and oil painting workshop were cancelled. The Gulgong Arts Council's Easter Young People in Focus exhibition was cancelled. The Bathurst Arts Council's "Brucedale" twilight concert and champagne picnic were cancelled. The Cowra Arts Council's *Così fan Tutti* in the Japanese Gardens was cancelled. In the southern tablelands, the Not Quite the Outback project is on hold. The Broken Hill City Art Gallery visiting artists' digital workshops have been relocated to a private art residence in town. The Broken Hill Library writing workshop was cancelled. The Regional Arts Committee Flat Line Festival was postponed. The Line of Lode, an Art Hole community art initiative, was postponed.

In the Upper Hunter, the Merriwa River rally was cancelled; the Renata Turini recital in Scone was cancelled; the young musicians concert was postponed; the performance of *Twelfth Night* by the Railway Street Theatre Company was postponed; the Murrurundi Arts and Crafts street market was cancelled; and the Scone Arts Council piano concert was cancelled. In other regions, the Shoalhaven Potters monthly fair at Pyree, near Nowra, was cancelled. The Point-to-Point annual Easter art show at Kialoa Point was also cancelled. That is just a snapshot of the number of markets, shows and other events that have been cancelled in country New South Wales. Many other events have also been cancelled. The list clearly demonstrates the urgent need for the legislation to be passed, to ensure that these events will be able to take place in the future. Many councils, such as Wollongong City Council, are paying approximately three times more for public liability insurance cover even though the number of claims is static. The problem of rising premiums also threatens the future of groups that undertake volunteer activities, such as Landcare. Landcare is restricting its activities and has been prevented from developing long-term projects.

Rising insurance costs have threatened the future of the horse riding industry. Last year premiums for riding schools increased by between 300 per cent and 400 per cent. The New South Wales President of the Australian Horseriding Centres fears that rides will cost \$90 an hour if something is not done. He believes that this will put many people out of business. The Equestrian Federation of Australia [EFA], which I spoke to yesterday, is still searching for public liability insurance cover. The federation has been forced to go offshore as no Australian insurer is willing to ensure it. The EFA's national chief executive officer and national chair have held meetings with insurance companies in London and Europe in an attempt to obtain insurance, but as yet they have seen no proposal. The EFA's policy expires on 30 September 2002, and if insurance is not found the 700 clubs and coaches that are accredited to the EFA will have no option but to stop riding and coaching.

Almost 30,000 incorporated associations need public liability insurance, ranging from small community groups to larger sporting clubs. Anyone using local council halls or sporting facilities must have a minimum insurance cover of \$10 million. A survey of 700 organisations showed that 96 per cent have not made a claim on their public liability policies for five years. The groups that have claimed in the past year have received payouts from insurers that equate to only 3.5 per cent of the total public liability premiums paid. From these figures, it seems as though community organisations are subsidising the industry's other insurance areas. Community groups are the least able to pay the rising cost of public liability insurance, and the insurance industry has not provided a breakdown of the claims against community groups, something that certainly needs to be done. Meanwhile, other organisations have abandoned traditional insurance altogether and insured themselves to avoid the rising premiums. Groups such as ClubsNSW have decided to put aside money to cover the risk of being sued, rather than pay the premiums. The President of ClubsNSW said that in this way clubs would have greater control over their costs.

The insurance industry accuses lawyers, judges and litigants of forcing the industry to increase premiums on small business, sporting, charity, community and arts organisations. The legal fraternity says that the insurance industry is to blame for its poor management, a lack of competition and regulation, and the collapse of the HIH Insurance group, whose artificially low rates drove industry standards.

This bill grapples with one piece of the problem, the payouts being awarded to public liability claimants. However, if the insurance industry is not reformed also, the problem will not be completely resolved. Concerns have been raised about this legislation, most notably in relation to retrospectivity. Legal, consumer and personal injury groups say that backdating the benefits will give insurance companies windfall profits from \$100 million to \$150 million, because people have already paid their premiums and insurers have collected the money. They say that retrospectivity transfers funds from existing accident victims to insurers. The Insurance Council of Australia responds that if retrospectivity is altered, the courts will be flooded with claims, and this will mean the benefit of lower premiums will take much longer to be passed on to the community. A review of the Cumpston Sarjeant report dated 27 May, which was conducted for the Law Council of Australia by Dave Finnis, FIAA, FIA, refers to retrospectivity. The report states:

The large majority of findings in this additional report are identical to those made in the report to the Law Council. There is, however, one new area in Section 7 of the additional report, entitled "Windfall gains to insurers from retrospective NSW legislation" The figures quoted in this section appeared to support commentary in the Summary section about potential "windfall gains to insurers of about \$100m to \$150m".

Richard Cumpston describes all key assumptions used for calculating the potential windfall gains as either "approx" or "a guess" and his findings in the area are introduced as being very rough. No supporting data for the calculations is evident either in this additional report or the report to the Law Council. Given the lack of data, I am unable to comment on the veracity of the findings. As previously noted, I have questioned Richard Cumpston as to any detailed work to support his evaluation of the financial effects of the potential legal reform in NSW, with no response to date.

Many have argued that the public liability crisis is more a function of increased compliance costs following the post-HIH prudential requirements; the increasing competition in the Australian insurance industry; the post-September 11 drop in investment returns, which had supported artificially low premiums over the past decade; aggressive competition between domestic insurers in the 1990s; lack of regulation in the Australian insurance market; and the impact of taxes and levies. I received a letter from a Mr Gary Dempsey, who said that two years ago his daughter was injured at a neighbour's house when an unsecured sandstone letterbox fell on her face. They have paid thousands in medical bills and she will require more dental work as she grows. Already he has been contacted by his solicitor, informing him that this bill will adversely affect his daughter's case.

A host of other organisations and lawyers are opposed to the legislation, including T. D. Kelly and Co., Marsdens, the Australian Plaintiff Lawyers Association, Stacks, Wollongong and District Law Society, the Coalition for the Injured and the Australian Consumers Association. Economist Henry Ergas, who is chairman of Network Economics Consulting Group, which has offices in Australia, New Zealand and the United States, wrote in the *Bar Association News* that what is surprising is that the most popular theory for these rising premium costs—that is, lawyers advertising for clients—is thus far unsupported by any empirical evidence. He wrote:

There is little evidence of a problem, much less systematic analysis of its causes. To the extent to which litigation in this area has increased, it is not clear that it has imposed net social losses. And the proposed solutions seem of dubious efficiency. It would be a pity if so poorly informed a public debate were to serve as a foundation for sweeping changes in public policy.

An undertaking should be given by the Government and the insurance industry that premiums will be reduced as a result of the implementation of the legislation. I talked to an industry representative today who said that there is a belief that premiums will drop and that one of the reasons for this is that there will be more competition in the market as a result of the legislation. Basically, it is a free market, and if there are profits in it, others will enter the market, there will be competition and premiums will inevitably drop. If they do not drop, I am sure we will revisit this matter in a few months.

The Coalition for the Injured was formed to oppose the introduction of this bill. It comprises representatives of the Australian Consumers Association, Injuries Australia, the Australian Psychological Association, People with Disabilities, the Chiropractors Association of New South Wales, the Combined Pensioners and Superannuants Association of New South Wales, the New South Wales Council for Civil Liberties and the Australian Plaintiff Lawyers Association. This coalition believes that if the bill is introduced in its current form, it will put insurance company profits before the rights of ordinary Australians. It says that retrospectivity will deny those who have been attempting to resolve their claims the opportunity to have them litigated. To set a cap on lawyers' fees may seem popular in this day and age; however, a concern has been raised that plaintiff and defendant lawyers will simply not defend people if it is uneconomical to do so.

In May a parliamentary research paper entitled "Public Liability" stated that a key concern in the debate is that any proposal for reform should bear in mind that the principal causes have yet to be explored in full or hotly contested. A common assumption is that there has been a litigation boom in negligence. Key cases

highlighted in the media may have contributed to the assumption. The report acknowledges that "So wide is this assumption that it is rarely challenged". Data from the Australian Productivity Commission reveals an overall decline in the level of litigation since 1994-95. Both the Australian Plaintiff Lawyers Association and the Insurance Council of Australia note that the majority of personal injury claims never reach court and are settled out of court. While the causes of rising premiums are complex and require further research, quite clearly something needs to be done now to rectify the problems faced by non-profit organisations, sporting clubs, the arts industry and others.

The community should recognise that we have to take responsibly for our actions. We cannot always blame other people for our mishaps. We should not be as litigious as we are. It is quite clear that there should be mutual responsibility. I support the bill, and I believe that the insurance industry should be examined closely and ultimately changes made to it, if necessary. I ask the insurance industry to work very hard to ensure that premiums come down and that the small organisations I cited earlier are able to obtain reasonable insurance. I understand that various insurance companies are putting together a special scheme to allow non-profit organisations to obtain cheaper insurance. I hope that scheme is up and running very shortly.

**Reverend the Hon. FRED NILE** [3.26 p.m.]: The Christian Democratic Party supports the Civil Liability Bill. There has been talk about the bill being delayed and about various amendments being proposed, but I was interested to read a report in the *Sydney Morning Herald* of 17 April 1999 about representatives of local government making a submission to the State Government on these very issues. The submission stated:

People who tripped over footpaths and children hurt in playground falls are among the 14,000 litigants who have won more than \$38 million in damages from Sydney's councils.

The number of claims has soared by 100 per cent over the past five years, and the size of damages has also increased—up from an average of \$20,000 10 years ago to between \$200,000 and \$400,000 now.

Personal injuries account for 42 per cent of all public liability claims, yet account for more than 73 per cent of the cost to councils.

The latest available figures, which are based on 19 councils' cost over the past 10 years—

remember, I am quoting from a report of April 1999—

were part of a joint submission three metropolitan council insurance pools submitted to the NSW Government 18 months go.

That would have been in 1997. The point I am making is that this legislation is long overdue. It is urgently required, and nothing should be done to delay the implementation of the bill, including proposing amendments that would seek to change the basis of the costing of the legislation, which has been done carefully by the Government and its advisers before introducing the bill. Quite often what appears to be a minor amendment can have a dramatic impact financially on the operation of legislation. That needs to be borne in mind by honourable members.

On 20 March the Premier announced that New South Wales was considering legislative reforms to personal injury law, and the bill we are now debating contains stage one reforms dealing with limitations on damages and lawyers' costs. There will be a second stage, as announced by the Premier, and that will deal with the more complex issue of changing the relevant test for negligence—for example, deeming risk warnings an appropriate defence for risky activities, which will particularly help local councils, small business and tourism operators.

The obvious case that comes to mind is that of the young man apparently affected by drugs and alcohol who dived into the surf at Bondi Beach and hit his head on a sandbar that was concealed by the water and then blamed the local council. I do not support the payment that was made to him. I have always been of the view that flags on a beach do not guarantee the safety of people swimming between the flags nor that nothing will happen if they do so. The flags simply indicate that lifesavers are supervising and watching that area, and if people get into trouble while swimming and they signal for assistance, for example by raising an arm, someone will rescue them. That is all the flags indicate.

I am not a lawyer but I believe it was wrong for the legal representatives of the plaintiff in that case to argue that the flags mean that the particular area on the beach marked by them is a safe area and that people could do what they like between the flags. In my opinion the flags do not indicate that at all; they indicate only that that part of the beach is supervised. If people swim outside the flags, they take responsibility for their activities. This bill will not apply to damages for injuries arising from intentional malicious acts or acts intended

to cause injury or death, or from sexual assaults. That is a positive point. The bill sets a maximum of \$350,000 for general damages awards and a maximum for damages for loss of earnings at three times average weekly earnings, which seems to be a reasonable amount.

The bill extends the current health care 15 per cent severity threshold for claims for non-economic loss to all personal injury matters. It requires courts to discount by 5 per cent damages for future economic loss, and it clarifies the circumstances for claiming damages for gratuitous care by relatives. It also stops courts from awarding interest on damages for non-economic loss and gratuitous care, and from awarding exemplary punitive or aggravated damages in negligence claims. It provides for structured settlements by consent. That is another positive aspect of this legislation. At some point I would like to see us move to a position in which structured settlements are not arrived at by consent but are the agreed method by which settlements are made. That would remove the lottery attitude of some people who think they will get \$1 million or \$2 million. The main point is to ensure that people who are injured have A-grade health care, medical care, for the rest of their lives, and structured settlements would make that a priority. I believe that will become Federal and State policy in due course.

In claims below \$100,000 the bill limits the costs recoverable by plaintiffs' and defendants' lawyers to \$10,000 or 20 per cent of the amount claimed, whichever is the greater. It allows costs above the limit to be recovered in some circumstances, such as when the court has ordered that further costs be paid because, first, a favourable offer of settlement was not accepted before trial or, second, the defendant's conduct of the case caused unnecessary and unreasonable delay or complications. It also makes it personal misconduct for lawyers to act when there are no reasonable grounds for believing the claim or defence has reasonable prospects of success. That will bring a more cautious attitude to the legal profession, some members of which have undertaken active advertising campaigns to solicit business, and the no win, no pay attitude has led people to make claims, hoping that they might win.

The bill makes lawyers liable for the costs of the other party when there are no reasonable grounds for believing that a damages claim or defence has reasonable prospects of success. Generally, the new rules will apply from 20 March 2002, with the exception of claims notified to the Crown before 20 March 2002 and filed before 1 September 2002. The Opposition's main objection to the bill seems to be that the Government has inserted in the bill an exception for claims notified to the Crown. As honourable members know, that relates back to the Glenbrook rail tragedy. In that regard, the Government drafted legislation, submissions were made, and the Government made a concession along these lines for claims notified to the Crown. Now that the Government has made that concession in this legislation, the Opposition's main argument is that the concession should be extended to all persons. One can almost sense the Government thinking that it should not have made the concession in the first place, because if there was no concession the Opposition would not be able to argue against the operation of the legislation.

Two forces are driving this legislation. The first is the obvious force to which many speakers have referred, that is, skyrocketing premiums, which have some relation to what has happened in recent times, particularly the terrorist attack on and destruction of the twin towers of the World Trade Center, which involved billions of dollars of insurance claims and virtually bankrupted the insurance industry around the world. Insurance companies have interlocking arrangements of re-insurance and so on, and many Australian policies were re-insured overseas, in particular with companies related to New York. We want to do all we can to reduce premiums, and hopefully this bill will be a step in that direction. During our meeting with representatives of the Insurance Council I noted that they would not—obviously they were under pressure—guarantee a reduction in premiums, but they said that it was possible that premiums could reduce by 10 per cent to 12 per cent. I took that to be the usual cautious attitude of insurance companies. They did not want to be on the record as guaranteeing that premiums would be reduced, although they tried to indicate that it would not be a reduction of only 0.5 per cent or 1 per cent.

The second pressing and, I would suggest, more serious issue is that insurance companies are pulling out of public liability insurance. Not only are people complaining that insurance premiums are too high; many people cannot get insurance now. Insurance companies see civil liability insurance as a no-win situation, so why should they stay in the civil liability area? Why should they engage in a business that puts them at great risk because of the number of small claims and the exorbitant awards decided by the courts in recent times. If this bill is not passed, I believe there will be a dramatic withdrawal from this area of insurance. As other speakers have said, that would bring all public activities to a standstill, minor and major—from a little show in a country town to the parade through the heart of Sydney on Anzac Day. All such events would be at risk if organisers cannot get public liability insurance. That is the danger, that is the threat we are facing, and this bill is seeking to encourage insurance companies to stay in this area of business but to do so in an efficient and economical way and to have reasonable premiums that can be justified to maintain a profit margin.

Insurance companies are not charities; they must make a profit. However, I believe—and I have proposed an amendment to this effect, which I will explain in more detail in a moment—the Australian Prudential Regulatory Authority [APRA] should be given the power to investigate and supervise the operation of premiums. If the Committee of the Whole agrees to my amendment, it would not change the bill in any way. It would simply introduce an element of supervision. I believe that some members who have criticised this legislation are worried about insurance companies making exorbitant profits and charging outrageous premiums. If my amendment is carried, I believe it would prevent that from happening.

In this debate it is not helpful for honourable members to continue making statements about windfall profits of \$150 million as quoted by the Australian Plaintiff Lawyers Association and the Law Society. Such statements do not relate to reality. The reality is that premiums were too low mainly because of the operations of HIH Insurance and FAI, which were involved in premium cutting to maintain and expand that corner of the market. When those companies collapsed and went bankrupt, not only a few hundred million dollars but billions of dollars—even now there is debate as to how large the losses were; figures of up to \$7 billion and \$8 billion have been mentioned—were lost. That those companies went bankrupt indicates that other companies could not compete with them.

Those who tried to compete have not gone bankrupt but they have not made large profits either, and certainly will not make a windfall profit from this legislation. As the Hon. Malcolm Jones said, insurance companies are facing a \$1 billion loss, and this bill will reduce the \$1 billion loss to \$850 million. That is the more accurate way of expressing what will happen rather than using emotive terminology such as a windfall profit of \$150 million, as if a cheque in that amount will be handed over to insurance companies.

Another point of contention with the Opposition is retrospectivity. Claims are to be notified before 20 March, the date the Premier made the announcement, and filed before 1 September 2002. I realise the Treasurer has not said as much but I believe the situation is similar to that relating to the health liability and motor accidents legislation. Once the Government foreshadows changes the court will be flooded with claims filed by lawyers, and for that reason a specific date has been chosen. Strictly speaking this is not a money bill but it is certainly related to finance and in that sense the Government is following the approach adopted by State and Federal governments with other legislation so that changes will take effect from the date of announcement to ensure there is no abuse of the system.

As honourable members know, it takes time to draft legislation and have it pass through the Parliament, particularly to have it pass through the upper House. The situation is such that no government can be certain when a bill will be passed. The Government could have taken the risk and quickly drafted a bill and introduced it in Parliament and then said it would take effect when it is passed by the Parliament. However, we could have taken steps to delay the bill, debate on it could have been adjourned, it could have been referred to a committee for examination. Steps could have been taken over which the Government would have no control, and in the end the bill may not have been passed until December. The Government had no choice but to set a date so that the length of time it takes for the bill to pass through this Chamber is no longer an issue, and if the Opposition and/or the crossbench delayed the bill for any length of time, the way in which the legislation was intended to operate would not change.

Much has been said about the operation of the insurance industry. Trowbridge Consulting issued an authoritative document that has been used by the Federal Treasurer, in consultation with State Governments. So far as I am aware no challenge has been made to the figures contained therein, including a comparison of claims growth in New South Wales with that in other States. For example, the approximate annual growth of claims from 1993 to 2001 was 13 per cent in New South Wales compared with only 9 per cent in Victoria and 8 per cent in South Australia. In 2001 the average amount of actual bodily injury claims in New South Wales was \$47,200, which was virtually double the amount in Victoria, which was \$25,200. I seek leave to table a document entitled "Claims Information from Insurers", which indicates the cost of payments to lawyers and payments in damages to injured persons.

**Leave granted.**

**Document tabled.**

The Australian Prudential Regulatory Authority [APRA] has supplied some very helpful statistics showing that in 1998 the number of claims reported was 55,000, the premium revenue was \$786 million and claims incurred was more than \$1 billion, a loss ratio of 136 per cent. In 1999 the number of claims reported

was 72,000, premium revenue was \$857 million and claims incurred \$1.2 billion, a loss ratio of 144 per cent. In 2000, the number of claims reported was 88,000, premium revenue was \$883 million and claims incurred \$1.1 billion, a loss ratio of 134 per cent. It is important for both State and Federal governments to note the amount of taxes paid in New South Wales on insurance. For example, in 2000 stamp duty of 10 per cent was paid on liability premiums in New South Wales, amounting to \$40 million, which, together with GST of \$19 million, added to the costs.

Those premium figures are taken from APRA selected statistics for the year ended 31 December 2000. That puts an end to the argument put forward by some honourable members that there have been exorbitant profits made by insurance companies in the provision of public liability insurance. In summary, in 1998-2000 premiums amounted to \$2.5 billion but claims amounted to \$3.5 billion, indicating a loss of \$1 billion, plus expenses. That is why insurance companies are pulling out of public liability or if they have stayed in, they have dramatically increased their premium charges. We have been lobbied strongly by the Law Society and the Australian Plaintiff Lawyers Association, which based its arguments on a report dated 14 May prepared by Cumpston Sarjeant Pty Ltd, among other documents. I have obtained a review of that report. While I do not suggest that we have been misled, I believe that the accuracy of the document is in question. I believe it was prepared in good faith on behalf of the Law Society and the Australian Plaintiff Lawyers Association.

**The Hon. John Ryan:** Who conducted the review?

**Reverend the Hon. FRED NILE:** David Finnis, on behalf of the Insurance Council. The other review was done on behalf of the Australian Plaintiff Lawyers Association.

**The Hon. John Ryan:** Absolutely. Don't accuse one side of having more virtue than the other.

**Reverend the Hon. FRED NILE:** No, I am not. I am saying that we should not base all our arguments on a document supplied by the Law Society. Honourable members can make their own judgment by assessing the response that has been provided by the Insurance Council of New South Wales, which simply reproduces statistics, and they can be either accepted or rejected. An important statement made by the Law Society is that the profit of the insurance industry in the financial year 2002-03 would be 17 per cent of premiums, whereas the assessment of projected profit is 1 per cent. That is a big difference. It is either 17 per cent or 1 per cent. That poses a difficulty for crossbench members in particular—the Coalition may have resources that we do not have—because often we are dependent on documents that are handed to us, only to find that different conclusions can be drawn from figures contained in them.

As happened with the Plaintiff Lawyers Association and the Law Society, those conclusions supported their arguments. One could argue that the Insurance Council has documents to support its argument, but the way in which the Insurance Council of Australia document has been prepared seems to provide corrections to the Law Society document. It has been very difficult for the Insurance Council of Australia to clarify some points made in the Law Society document because the person who prepared that document is not available, is not in Australia. It is a pity that the person who produced the document is not available to defend his assessment. Why is this bill before the House? Clearly, there has been a change in the attitude of many people. At places I have been in recent days I have observed that if someone stumbles or falls from a chair the joke is made, "Are you going to make a claim?" That jocular comment is made by many people at parties and family gatherings and even at the meal table.

**The Hon. Dr Brian Pezzutti:** And at church.

**Reverend the Hon. FRED NILE:** Yes, and at church. The prevailing attitude is, "Can I put in a claim for that?" A lady burnt by hot coffee at McDonald's sued and apparently received a large monetary settlement. Anyone with commonsense knows that hot coffee must be handled carefully. A claim is almost like a gamble: you might win something, so make a claim. The attitude of lawyers has also changed. Maybe because there are so many lawyers in Sydney, public liability litigation has become a very competitive business. Aggressive law firms have been chasing business and actively pursuing class or large-scale group actions since 1992. In particular, the "no win no pay" system of litigation has encouraged claims that in the past may not have been made. Advertising by lawyers has also contributed to the increase in litigation. The Government is aware of the problem and is taking steps to impose restrictions.

The Premier has referred to courts making Santa Claus awards. No doubt the courts have made very generous awards. Some upper House members have said in discussions that a judge may be understandably



compassionate when a quadriplegic is before the court and a decision needs to be made in very emotional circumstances. Judges make these awards with good intentions, but the awards are getting higher and higher. I would prefer a system of structured settlements. I have referred already to the increasing number of claims and to increasing claim costs. From 1988 to 2000 the claims increased from 55,000 to 88,000, a 60 per cent jump. Not all claims go to court; many are settled. It is a bit like blackmail. A company, knowing that court action costs money and lawyers have to be paid, might decide to negotiate a settlement to deal with a claimant who may have tripped and fallen over in a shopping centre. Perhaps the person was careless or not watching where he or she was going. The company, rather than being embarrassed by having its name in the newspapers, decides to pay the person out.

Many high-risk recreational activities such as bungee jumping are engaged in by young people. The Perisher Blue Ski Resort, the largest ski resort in the southern hemisphere and in the top 10 per cent of world resorts, advises that it was the subject of a substantial claim. The person who sued Perisher Blue used a real estate sale sign as a toboggan to slide down the side of a mountain, had an accident and sustained injuries that left him a quadriplegic. He had not purchased any ticket from the company other than a train ticket to get up the mountain. For example, he did not have a ticket to engage in any activities provided by the company. At the time of the injury the person was not using any part of the groomed or patrolled ski slopes set aside by the company for such activities. Originally he was awarded \$8.8 million in damages, which were reduced to \$7 million following a court finding that the plaintiff contributed to his own negligence in the order of 20 per cent. I would have said 100 per cent. Anyone who would slide down the side of a snow-covered mountain on a real estate sign, go over a cliff or crash into a tree, can hardly blame the ski resort.

The Department of Education and Training was found to be 60 per cent liable, which equated to \$4.2 million. How on earth that liability could be established I do not know. The only possible connection with the department was that the young person was a trainee schoolteacher. Perisher Blue was found to be 40 per cent liable, equating to \$2.8 million. With costs, the sum payable by Perisher Blue will be about \$3.5 million. At the time of this incident the company was insured with CIC Insurance, which was subsequently acquired by HII Insurance. Therefore, Perisher Blue had not been able to claim on insurance. Mr Ashley Blondel, Chief Executive Officer of Perisher Blue, said in the letter dated 30 May that there was a strong possibility that the company and other similar companies would have to close down. They would have to cease operating and stop providing a very valuable community activity that many people enjoy.

I have received many submissions from local government. That is why I am surprised by the stand taken by the Deputy Leader of the Opposition on this bill and on the amendment. Usually, the honourable member is very much in harmony with local government in respect of his shadow responsibilities. However, a letter I have received from the Local Government and Shires Associations of New South Wales dated 30 May, signed by the joint presidents Councillor Peter Woods, President of the Local Government Association of New South Wales, and Councillor Mike Montgomery, President of the Shires Association of New South Wales, makes particular reference to the amendments proposed by the Opposition. I quote from the letter:

The effect of those amendments will be to provide that all claimants who have notified of a claim by 20 March 2002 and have commenced proceedings by 1 September 2002 will be covered under the current public liability provisions. The government proposes that only claims against the crown will be covered in that way. We oppose those amendments and urge that the bill be supported in the form introduced by the government.

Our concern with the amendments is that any immediate benefit through premium stabilisation will be lost and the floodgates will be opened to new claims in the extended period. This was the experience when there were substantial new claims against the state motor accidents scheme in 1996, and with the Health Care Liability Act, when a similar experience occurred.

In our view, this matter is far too important for party politics. Our communities expect that a bipartisan approach will be adopted in relation to the Bill, and this is what we urge you to support when the matter is in the Legislative Council for debate.

Although the Opposition is usually in harmony with local government, it seems to be out of step on this occasion. I will not go through all the letters I have received from local government representatives but merely note that I have received letters expressing similar concerns from local councils, particularly those in country areas such as the Parkes Shire Council and the Narrabri Shire Council. I hope that the Deputy Leader of the Opposition has received copies of all the letters that have been sent to him. Because I have proposed amendments, I make clear my position that in no way do I want to have an open-door policy whereby insurance companies, rightly or wrongly—and I do not prejudge them in any way—would try to make exorbitant profits out of this legislation. Although I do not regard that as a serious possibility, to prevent unjust enrichment and make some people happier with the bill—the Government has not indicated whether it will accept this amendment—at the Committee stage I propose to move the following amendment:

No. 1 Page 3. Insert after line 16:

**9 Reports and investigations by IPART**

- (1) The Minister is to refer the following matters to the Tribunal under the IPART Act for investigation and report under section 12A of that Act:
  - (a) the operation of this Act,
  - (b) the determination of the pricing for premiums for personal injury policies,
  - (c) a periodic review of pricing policies in respect of premiums for personal injury policies.
- (2) The Tribunal is to make a determination from time to time of the pricing for premiums for personal injury policies.
- (3) The provisions of Divisions 5-7 of Part 3 of the IPART Act apply to and in respect of such a determination as if:
  - (a) the service of providing insurance under a personal injury policy were a government monopoly service within the meaning of that Act, and
  - (b) references in those provisions to a government agency were a reference to a corporation that issues personal injury policies, and
  - (c) such other modifications as may be prescribed by the regulations were made to those provisions.

That is not the entirety, but the essence, of the amendment. I have also foreshadowed the following amendment that will clarify the basis upon which courts may make a decision:

In proceedings on a claim for personal injury damages, the court is not to find the case of the claimant proved unless the court is satisfied that it has been proved beyond reasonable doubt.

The judges have stated their concern that they can operate only within the existing law, so my amendments might put an end to the Santa Claus syndrome. My third foreshadowed amendment relates to the appointment of an insurance industry ombudsman and reads as follows:

A claimant for personal injury damages may complain to the insurance industry ombudsman that the claimant has not been dealt with fairly by an insurer who is a party to the insurance industry ombudsman scheme.

The amendment includes an outline of procedures, the manner in which the role would be established, and its operation. I hope that both the Government and the Opposition will give favourable consideration to the amendments I have foreshadowed. Having said that, I state that the Christian Democratic Party supports the legislation that is before the House. It is a very important bill.

**The Hon. Dr BRIAN PEZZUTTI** [4.02 p.m.]: My comments on the bill will be brief. In this Chamber, honourable members have relived the Labor Party dudding the people of New South Wales as it did with the workers compensation scare campaign. This Government harbours an unrealistic expectation that insurance companies will somehow live with the promise made by the Special Minister of State of reducing the cost of compulsory third party premiums by \$100, as though that were some sort of gold standard. With that new weapon placed in the hands of the Government, it has hammered every compensatory insurance regime as though it were a nail. The Government started with third party insurance premiums and went on to professional indemnity insurance, but the difficulty was that the Ministers shillyshallied when writing the regulations.

At that stage, with the operation of two different compensatory processes, the number of claims lodged was just enormous. United Medical Protection [UMP] received four times its usual number of claims within that period, which effectively sent the company belly up. Moreover, the whole compensatory insurance scheme was put at risk. On this occasion, the Premier has taken the extraordinary step of making the legislation retrospective to 20 March, but he gave no indication when he made the announcement that the bill would provide for retrospectivity. By doing so, the Premier has made this bill not just retrospective, but unconscionable. The Premier's conduct on this occasion is quite different from what occurred with UMP and with other arrangements. The Carr Labor Government has not learnt from the lessons of the whole process of professional indemnity insurance.

If the Government had included in the compensatory process people who effectively had commenced a claim process by 20 March—in other words, those who had notified a solicitor of their intention to proceed with their claim and whose solicitor was in the process of obtaining compensation—there would have been no

problem. Unfairness is the issue that is important with this legislation. I believe that governments should learn from previous errors, the injustices of the past and the way in which inequitable standards have been applied. The Opposition's amendments will go a long way towards addressing those anomalies without necessarily costing the poor, bleeding insurance companies a large amount of money. I hope that the Premier will come through and ensure that the Australian Prudential Regulation Authority [APRA] and the Australian Competition and Consumer Commission [ACCC] take a close look at insurance companies and have the actuarial process closely examined.

I noticed that a huge quantity of highly qualified actuarial advice on civil liability was tabled by the Premier, and I noted that exactly the same type of bleating came from the actuaries in relation to workers compensation and third party insurance. However, the Opposition knew then, as it knows now, that insurance companies, irrespective of the form of insurance under review, undoubtedly will load every item of cost against a particular form of insurance, including the insurance company's vehicle fleet, its telephones and its buildings to make insurance companies appear to be doing it tough, whereas it is well known that many of them spread their insurance expenses across many types of insurance. I seriously believe that it is time to take a close look at what is being done by insurance companies that are involved in third party and workers compensation—companies such as GIO, for example. I suggest that this time insurance companies should put their best foot forward and be fair dinkum with Australian consumers. If they were fair dinkum about the cost of insurance, the people would accept the cost in good faith and would live within their means.

**The Hon. ALAN CORBETT** [4.06 p.m.]: On Tuesday mornings some crossbenchers have regular meetings to which various members of the community, organisation representatives or individuals are invited. Last Tuesday at approximately 10.50 a.m. Alan Mason of the Insurance Council of Australia and the chief executive officers of two very big insurance companies, Allianz and QBE Insurance Ltd, attended. During discussion about this bill I asked a very pointed question about whether they could give me approximately the premium reduction that will follow if the bill is passed as it is without amendment. They looked at one another and there was a pause. They then said that they had heard figures of a 10 per cent or 12 per cent reduction, but they could not support that.

That statement indicates to me that there may be a reduction of less than 10 per cent in the cost of premiums, but we do not really know what the reduction will be. Nevertheless, honourable members can be sure that insurance companies, in accordance with their lawful responsibility to maximise profits, will be acting in the interests of their shareholders and investors. As parliamentarians we have to consider whether the reduction in the cost of premiums and the consequent social effects of the bill will be worthwhile, and what type of balance is required. I bring this to the attention of the Parliament because a number of backbenchers believe there will be a 12 per cent reduction in premiums. Quite plainly, that is not correct.

**The Hon. Dr PETER WONG** [4.08 p.m.]: The Unity party will support the Government's Civil Liability Bill. I congratulate Premier Bob Carr on his leadership in undertaking this reform. No doubt many States will follow the leadership he has shown. I support the bill as stage one of the Government's tort law reform and I will also support stage two, which relates to the law of negligence, subject to being shown the details. I accept that stage two is urgent, but it should be properly drafted over the next three months so that legislation can be developed to strike the correct balance between the rights of various parties in legitimate and genuine cases deserving of compensation.

The need for this legislative reform is clear. Public support for this legislation is justified and overwhelming. It is a great shame that this reform has come onto the agenda only after a series of high profile court cases and awards, continual threats to the viability of community and voluntary organisations, such as lifesavers, and the recent collapse of doctors' medical indemnity insurer, the United Medical Protection [UMP]. The issue is clear, though the details of the correct legislative response may be complex. Without repeating the statements and points that have been made by other honourable members, the amount of civil litigation over accidents, injury and negligence has been steadily rising over more than a decade.

The increased amount of payouts to injured people in such cases has been borne mainly by insurance companies that have had to increase insurance premiums to remain viable or seek insurance in other areas. The high premiums have begun to close down or threaten many community welfare and voluntary organisations. Lifesavers and the Family Planning Association are the most recently threatened. However, many other local events and welfare services have felt the crunch, as was mentioned earlier by the Hon. Richard Jones. The community outrage is understandable. Important community events and services are being closed down. What is causing that? In many cases, negligence claims are legitimate and injured people are deserving of compensation when another person or organisation has been grossly negligent.

In many cases claims are relatively trivial or the organisation being sued took what most people would consider to be reasonable care under the circumstances. The insurance companies pay out on most of these cases because it is not worth fighting and the courts are inclined to award significant damages in many cases. Lawyers who have been labelled ambulance chasers, rightly or wrongly, have profited greatly from present laws and court decisions. They have promoted suing for negligence and personal injury and they have encouraged more and more people to do that. It has been such a major legal loophole and opportunity that, human nature being what it is, more and more people are exploiting the system. People hear of friends who have received millions of dollars for tripping on somebody's property. American sitcoms are full of similar ideas and stories.

When such a practice is seen as common, people who may be struggling or who are just greedy think that they would be regarded as mad if they did not make some money out of the system. In many cases a lot of money has been paid, in my view, to quite undeserving people. That will not last for ever. Something will eventually give because there is not enough money for us all to make a windfall or a small fortune for some minor injury. One body that eventually caved in was United Medical Protection. All of a sudden the Federal and State governments had a problem that they could no longer avoid. It is interesting to observe how such issues proceed up the political agenda.

For over a year community and welfare agencies have alerted Federal and State governments to the fact that their services were under threat from skyrocketing public liability insurance, yet neither the Federal Government nor the New South Wales Government took decisive action until the crisis threatened to close down our beaches and parks and halt essential services provided, for example, by local doctors. What is worse, this crisis will hit rural areas hard. Even lawyers on the Government and Opposition benches finally agreed that it was time to put an end to the lawyers' litigation picnic. I know it is easy for members on the crossbenches to be critical, but that is my job. Clearly, this situation should not have been allowed to get out of control in this way. Both the Federal and New South Wales governments should have acted earlier.

I mention this issue because legislation that is made on the run could contain serious errors and it could have unintended consequences. That is why I support the proposal by the Government to delay stage two of its reform for three months. As I said earlier, I will support this legislation, which is overwhelmingly in the public interest, even though it was enacted in haste to help bring insurance premiums under control. Having closely examined the legislation I believe that it strikes a reasonable balance between maintaining the rights of the seriously injured and keeping down insurance premiums by putting in place caps and by placing a brake on minor and speculative claims.

The Australian Plaintiff Lawyers Association and other legal bodies and firms have made statements to the effect that this legislation will unfairly take away the legal rights of people who have suffered injury. I do not believe that that is true. If it is, lawyers specialising in injury law who have promoted their services would be largely to blame for milking and abusing the current system until it was no longer sustainable. The real concern is that lawyers will lose the rivers of income that they have made up to now from these cases. I am much more sympathetic to non-profit organisations such as the Australian Consumers Association and the Multicultural Disability Advocacy Association.

The most positive use I have seen of civil litigation in recent years has been a damages case against tobacco companies on behalf of those who suffered health problems after smoking cigarettes. I believe that cigarette companies have been wilfully and grossly at fault for endangering the health of millions of people for no reason other than to make themselves rich. I would be concerned if a consequence of this legislation was a reduction in the ability of citizens to take legal action against tobacco giants. There may also be implications for other consumers. I would be interested to see the detail of the second stage of the Government's legislative reform to determine whether or not that is the case.

An alternative solution that has been raised is a no-fault national compensation scheme to compensate those victims who have suffered injuries. For too long there has been a great anomaly between those who are injured and disabled and who can sue insurance companies and those who have no-one to sue. If people have suffered significant injury and they are incapacitated—and an insured body or person is found to be liable—those people may receive millions of dollars in compensation, which will afford them a reasonable quality of life. People who are injured by someone who has no money, where negligence cannot be sheeted home to an insurance company, will receive no compensation. Similarly, people who are genetically disabled will not be compensated.

An injured person who may have exactly the level of disability of a plaintiff who has received millions of dollars may only receive a disability pension, perhaps miscellaneous support for their carers, or medical

assistance. That is just bad luck and it is grossly unfair. Two categories of people receive unequal treatment based on the circumstances of their injury or disability. A no-fault national compensation scheme would have a great deal of merit. However, it would be a Federal government responsibility.

I urge Prime Minister John Howard to proceed with all haste. However, I do not see that happening. I do not really expect that to happen right now when Costello has been trying to kick people off disability pensions and put them onto a lesser Newstart benefit. There have been arguments about whether or not insurance companies are making a profit. I quote from a report from the Australian Competition and Consumer Commission which states:

Most cases over the last decade.. have contributed to that Low return. Seven of the fifteen APRA classes... Professional Indemnity, Product & Public Liability, Travel and Other have had Very Low or Low return on capital. If insurers respond by increasing premiums, these classes are likely to be under the most pressure to do so.

Table 1 in that document lists professional indemnity overall as low. It also lists product and public liability as low. Who will be harmed by this legislation? In contradiction of earlier statements made by the Australian Plaintiff Lawyers Association, the major impact of this bill will be on pain and suffering and those cases involving minor and moderately injured people. The benefits for critically injured people will more or less remain the same. Lawyers who are involved in third party liability litigation work will be disadvantaged by this legislation. However, if the community were aware that every small slip and fall could attract a settlement of up to \$10,000 I am sure that it would demand even more stringent legislation. Will the legislation work? I quote a statement by no other than Phillips Fox which was published in the *Sydney Morning Herald*. It stated:

A Phillips Fox partner, Russell Adams, said the bill would initially and significantly reduce claims numbers and help the insurance industry reach "satisfactory levels of profitability".

**The Hon. John Ryan:** Do you know who Phillips Fox works for? They are insurer lawyers.

**The Hon. Dr PETER WONG:** I am not saying that Phillips Fox is neutral; they are lawyers. For the benefit of the Hon. John Ryan, the Australian Plaintiff Lawyers Association alleged response to the Cumpston report is that claims costs may fall in response to benefit reductions.

**The Hon. John Ryan:** They obviously will.

**The Hon. Dr PETER WONG:** That is right. Even the plaintiff lawyers' actuary is saying the same thing.

**The Hon. John Ryan:** The bill does cover the claims costs; there is no doubt about that.

**The Hon. Dr PETER WONG:** That is right, and the costs will go down. I agree that no-one wants to see a windfall go to insurance companies. I would be happy to look at Reverend the Hon. Fred Nile's amendment, and I would also like to hear the Government on this point. Referring to an email that allegedly came from the New South Wales Law Society, a *Sydney Morning Herald* article stated:

"This will be a hard fought battle in the upper house," it says. "The Opposition will come under enormous pressure from insurers to back down—no doubt with threats that the Opposition will be blamed for premiums not coming down."

I believe that many Opposition members are very worried about the amendment being successful. The article continued:

"The cross-benchers will receive all manner of inducements from Government to support the bill in the upper house. To amend the bill to get rid of retrospectivity we need the Opposition and eight out of the 13 cross-benchers to support an amendment."

As soon as the Premier announced his intention, I wrote a letter of congratulations to him. As a person who knows the community well, I believe that is what the community wants. The Hon. Charlie Lynn may laugh, but he does not understand how the community feels.

**The Hon. Charlie Lynn:** Because you're a lap-dog for the ALP. You do what the ALP says, not what the community wants.

**The Hon. Dr PETER WONG:** You can't even spell the word "community". The Hon. Charlie Lynn will not be here for long. That is why he is on the backbench. Even the new Leader of the Opposition cannot stand him.

**The Hon. David Oldfield:** Which community are you talking about, Peter? Which is the one you understand?

**The Hon. Dr PETER WONG:** If I were to explain to you what community I am involved with it would take me a whole hour. I do not think the House would appreciate that.

**The Hon. David Oldfield:** Is that because you cannot explain things well, or is it something else you are getting at?

**The Hon. Dr PETER WONG:** That is really rude. Your questions do not deserve to be answered. They show your lower level of intelligence. I wish to make two points about retrospectivity. In relation to United Medical Protection, allowing retrospectivity will result in thousands of claims in the future. The Hon. Richard Jones read to the House many letters from local councils. Local councils are closer to the community than many of us. Legitimate arguments have been raised about the fact that there is not enough competition in the insurance industry. Over the years we have accepted excessive and artificial lowering of premiums. An increase in the number of insurance claims is another reason for the mess we are in today. However, without urgent reform and without creating an atmosphere in which insurance companies are allowed to continue as viable businesses, the pressure will continue. The passing of this bill will hopefully attract insurers to underwrite public liability policies, encourage more competition and at least stabilise, if not lower, premiums in the future. I shall quote a portion of a letter written by Charles Sawyer and published in the *Sydney Morning Herald*. It stated:

As a visiting Yank, I believe that the self-commercialisation of lawyers is one of the worst aspects of globalisation that Australia faces today. Lawyers in the United States have caused the costs of many services, especially medical, to soar beyond belief.

I recently had a hernia repair in Lismore, NSW, for \$4450. In California the identical state-of-the-art procedure would have cost \$ US19,000 (\$35,000).

Mr Sawyer is warning us that without reform we will be in more trouble. I shall quote a letter written by Brian King and published in the *Sydney Morning Herald*. It read:

Only one word suffices to describe the lobbying plans of the Australian Plaintiff Lawyers Association: obscene ...

As a specialist insurance broker in professional indemnity and liability insurance, I see the results of APLA's efforts as it translates into (a) premium rises, (b) non-availability of coverage and (c) the loss of access by Australians to insurance markets, global and domestic.

I deal daily with the claims made against insureds and some of the ridiculous assertions made by APLA practitioners in an effort to justify what can only be described as outrageous compensation claims.

APLA's assertion that no-one can "prove" that our current laws and the abuse are at the heart of the problem sounds familiarly like the spurious argument made by tobacco companies 35-40 years ago when they crowed over the "fact" that governments couldn't "prove" the link between smoking and lung cancer. Do we need to witness the collapse of our liability and professional indemnity insurance sector before APLA practitioners finally see what they have wrought?

I don't usually support Bob Carr and Labor, but this time they have got it more right than they will ever know and they have my vote.

**The Hon. David Oldfield:** Are you saying that you do not usually support Bob Carr?

**The Hon. Dr PETER WONG:** I am reading a letter, which I had indicated. The Hon. David Oldfield does not understand English.

**The Hon. David Oldfield:** I think I understand English better than you do. I certainly speak it better.

**The Hon. Dr PETER WONG:** But your intelligence is very low. In their contributions some honourable members said that some parliamentarians had given the Australian Plaintiff Lawyers Association a hard time. I suppose that would include me. I make no apology for asking a tough question, and I want to give the House some of my reasons. I have more than 30 years experience as a part-time welfare worker. Today I am still involved with many voluntary organisations. I have great respect for lawyers, particularly those who are involved in refugee work. If it were not for those people, many refugees, including those who came from Cambodia and China after the Serbian war, would not be here today. Those people have done, and still do, wonderful work.

My problem is that some lawyers—only some lawyers—are not creating a good image for the profession. I agree with the Hon. Greg Pearce that it applies to doctors too. Doctors advertise for cosmetic

surgery, impotence clinics, et cetera. The medical profession is having the same problem. I am not saying that lawyers are bad; I am saying that the perception is not good. It is not really their fault—it is a perception thing. I believe that a national program would put huge pressure on insurance premiums. It would also cost a considerable amount to provide proper support for those seriously injured who require such support. Further, anomalies may arise between those disabled by injury and those disabled through other causes, and this may well highlight inadequacies in other areas of government services for the disabled. Nevertheless, I believe that this is a most sensible option and is in the interests of the Australian public. The New South Wales Government is now taking action to address obvious problems, and this should be recognised. The Federal Government has not done enough about public liability insurance, and that should also be recognised.

**The Hon. DAVID OLDFIELD** [4.30 p.m.]: A great deal has been said about public liability insurance, and I do not wish to repeat many of the points that have been made. I do not wish to read a whole lot of stuff written by other people. I am opposed to any retrospective legislation—I always have been. Therefore, I do not favour that aspect of the bill. Unfortunately, I do not have support to fight that issue, so I recognise that not a great deal can be done about it other than for me to say that I oppose anything retrospective. That has always been my position. I am glad that we are attempting to protect voluntary organisations—whether this bill will have that result remains to be seen, but I am sure that the intention is for that to take place.

We have seen some ridiculous payouts, not only recently but on many occasions in the past. The most famous payout has been mentioned today: \$3.75 million for supposedly bathing between the flags. As we have seen in the newspapers, if this continues we could drive lifesavers from the beaches and stop councils from putting up flags because of concern that they will be liable by simply trying to indicate the safer areas of the beach. Would it be less litigious to have people drown on our beaches or be concerned with flags? We have heard a great deal of anecdotal evidence about whether the person was terribly deserving. Certainly, there was a cloud over the person's state of mind with regard to both alcohol and drug intoxication. We can only hope that a successful appeal will draw out all the information and change that payout amount.

Many years ago there was a similar payout. In about 1990 Manly Council and Warringah Council were sued successfully for some \$2 million—which, proportionately, I would suggest, is at least equal to \$3.75 million today—under similar circumstances. After a wild night of drinking, a person decided to go to Manly Dam for a swim in the early hours of the morning. It was still dark. The dam was closed and the gates were locked. Essentially, the person was trespassing. That person made his way into the dam, dived in and broke his neck, having dived into shallow water. The person was intoxicated and trespassing, but he managed to successfully sue two councils for \$2 million. That occurred 12 or 13 years ago. Payouts in the order of \$3.75 million, which we saw only a few weeks ago, have not been happening in only the recent past. Questionable payouts of such magnitude go back quite some time.

For a number of reasons, I am also concerned about the recent payout of approximately \$16.5 million to a young lady. In this case I am not questioning whether the person was deserving—I would suggest that she was. The question is: Was she deserving of \$16.5 million? Did she need that amount of money? If the GIO still existed and such payments were more publicly rather than privately managed, the person in question would not have needed \$16.5 million. If those funds were properly invested and managed she probably could have gotten by with half or less of that amount. Worse than the fact that those funds are not publicly managed and that \$16.5 million was far more than would have been required in appropriate circumstances, when this person, who is terribly incapacitated and unable to do anything other than perhaps think and move her eyes, dies—I hope that will not be soon—that \$16.5 million, or what is left of it, will become part of her estate. Someone will just inherit this money. Given the circumstances medically, it is likely that will happen in the not too distant future. A husband, a parent or somebody else, completely undeserving and unattached to this money, will inherit it.

If we had a more publicly arranged scenario, once the money was no longer needed it could be returned to the public purse for the assistance of other people in the same circumstances. It is wrong that \$16.5 million, or any amount, could be paid out and then as a result of the death of the recipient find its way into somebody else's pocket through inheritance—especially when those amounts could be horrifically high. I have no doubt that some person will inherit millions of dollars as a consequence of a lack of public management of these moneys. The fund should be publicly managed, and I am sorry we no longer have the Government Insurance Office. I reiterate my disdain for retrospective legislation. Not much can be done in this case, because I have little support. The Opposition and the Government both have views that are not terribly different. Although I have a disdain for retrospective legislation, if the death penalty for child killers were introduced I might change my view.

**The Hon. CARMEL TEBBUTT** (Minister for Juvenile Justice, Minister Assisting the Premier on Youth, and Minister Assisting the Minister for the Environment) [4.37 p.m.], in reply: I thank all honourable

members for their contributions to the debate, both last night and today. The bill is a measured response to the current public liability crisis, applying a scheme that was developed for health care claims and introduced in 2001. The enactment of the bill will place New South Wales first among jurisdictions in addressing the public liability crisis, with sound, sober changes based on actuarial evidence that the Premier has tabled. I take this opportunity to foreshadow a Government amendment to the bill. The amendment will exempt matters dealt with by the Dust Diseases Tribunal from the provisions in the bill that provide for the maximum cost in personal injury damages matters.

The amendment is necessary because of the unusual nature of matters in the Dust Diseases Tribunal. Section 11A of the Dust Diseases Tribunal Act permits plaintiffs to claim provisional damages for the dust-related condition for which they presently suffer to be assessed, on the assumption that they will not develop another dust-related condition. If it is proved or admitted to be a chance that an injured person will, as a result of the breach of duty giving rise to the cause of action, develop another dust-related condition—for example, carcinoma of the lung or mesothelioma—the tribunal may order that the plaintiff may claim further damages at a later stage. The provisional damages claim means that there is still a full hearing on liability and the damages will be on a provisional basis and may be less than \$100,000. The result of this provision is that a plaintiff may receive damages of less than \$100,000 on several different occasions in the tribunal. These damages would be against the same defendant for the same breach of duty. Each time the plaintiff came before the tribunal he or she would be subject to the cap on lawyers' costs in the bill, even though his or her damages might total several hundred thousand dollars.

These are not the small matters intended to be dealt with by the cap on lawyers' costs. They are big matters which are dealt with over a lengthy period, reflecting the slow onset and tragic results of dust-related illnesses. The Government considers that the amendment is necessary to ensure that plaintiffs in dust diseases matters are treated in the same way as other plaintiffs who receive large damages awards. However, there will be no other amendments to this bill. As the Premier indicated last week, the bill is part of a package of reforms. The amendments already foreshadowed by members of this House will undermine the central goal of the bill: to deliver certainty and predictability to the community and insurers about their liabilities.

I turn now to comments made in this House by members of the Opposition and the crossbench. In case any doubt remains in the minds of members, I take this opportunity to make it clear that this bill does not affect the basic rights of claimants. It does not affect the right to claim of anyone who has been injured by an intentional act that is done to cause injury or death, or that is sexual assault or other sexual misconduct. The Hon. Dr Arthur Chesterfield-Evans sought clarification on that point, and I thank him for doing so. The bill does not prevent the recovery of medical expenses incurred by injured people who have a damages claim, and it does not affect the ability of an injured person to recover lost earnings unless he or she earns more than three times the average weekly earnings—a figure which I am sure anyone would agree is more than generous.

I take this opportunity to correct the cynical campaign of misinformation being conducted by the Opposition about the impact of the bill on catastrophically injured people. The bill does not affect the capacity of injured people to recover their medical expenses. It does not affect the right of anyone to recover their medical costs or the rights of the vast majority of workers to recover past or future loss of earnings. The bill does not contain a cap on medical expenses. It affects damages for non-economic loss, that is, pain and suffering; it caps this amount at \$350,000. In a recent case in which the plaintiff was a young person who was rendered a tetraplegic the award of damages for non-economic loss was \$420,000. Such an award for this head of damages is exceptional.

This component was a small fraction of the overall damages award. The Supreme Court awarded a total of \$16.347 million. The major components of the award were compensation for medical expenses and loss of earnings. The recovery of medical expenses is not barred by the bill. Furthermore, the limitations on compensation for loss of earnings imposed by the bill are set at a maximum level, which is five times that awarded in this case. The effect of this bill in serious cases can best be illustrated by way of an example. Under the Government's proposals, if a person suffers an injury which would deprive him of earnings for 20 years, the plaintiff would be entitled to compensation for loss of earnings up to a maximum of more than approximately \$2,700 gross per week—three times average weekly earnings. This amounts to approximately \$130,000 gross per year, and this figure will be increased by consumer price index increases.

For loss of earnings over 20 years, a plaintiff will be entitled to an award of up to more than \$2.5 million for loss of earnings alone. Under the Government's bill, a plaintiff is also entitled to up to \$350,000 for pain and suffering. That brings us to a total of \$2.85 million, and that figure does not cover medical expenses



which, as I have already made clear, are fully covered under the bill. In the case mentioned above medical and care expenses were more than \$8.5 million. Also, the Government's bill will not preclude recovery of compensation for costs of rehabilitation. The standard of debate on the bill in this House would perhaps have been assisted if Opposition members had bothered to read the bill, rather than indulge in cheap manipulative stunts.

The Opposition's claims about the effect of the bill in various cases are, sadly, nonsense. The bill does not bar small claims in any way. In smaller claims the bill will have a significant impact on damages for non-economic loss—for example, pain and suffering—due to the severity threshold. In smaller claims these damages make up a significant part of awards. But their right to recover for economic loss will not be affected. While the threshold reduces general damages in smaller claims, it will actually increase average general damages for people suffering 33 per cent to 98 per cent impairment. That is, this change ensures that more money goes to the more seriously injured claimants. The bill provides for the amount of damages to be determined on the basis of a most extreme case. The courts have said that this does not require a judge to imagine the most extreme case and put that at the top of a grisly table of catastrophes.

It is a commonsense test. The test should not be applied in a technical way to exclude seriously injured people from general damages. The bill allows injured people to claim for the cost of gratuitous care services provided to them by family members. It allows injured people to claim for non-economic loss. The Government's actuarial advice suggests that many claimants will be better off following the changes. The bill will facilitate structured settlements so that people who are injured can have the certainty of regular payments, rather than the responsibility of investing a lump sum. Structured settlements are not usually awarded at present because of Commonwealth tax disincentives. Only the Commonwealth Government can do something to remove the unfair taxation treatment of structured settlements. The Premier has asked it to do so. The States are still waiting for an assurance that the Commonwealth Government's proposed legislation fixes the problems.

Last night we heard from the Opposition about the inconsistencies and so-called anomalies in personal injury laws. The Opposition did not point out that the bill brings public liability claims into line with health care claims. The bill promotes greater equality in the rights of injured people. It operates from 20 March, except for claims against the Crown. On that day the Premier foreshadowed the amendments in the House. The legal profession was on notice of the amendments from that day. Retrospectivity is essential to stop a rush of claims prompted by this bill. On one hand, the Opposition argued that retrospectivity is unfair; on the other hand, it said that this legislation is overdue. Yet New South Wales is the first jurisdiction in the country to introduce legislation to address the public liability crisis.

We witnessed a rush of claims last year when the Government announced its health care liability reforms. Those extra claims amounted to an extra \$140 million for the State Government alone. That was equivalent to three years worth of claims in a couple of months. Had a rush of claims happened in response to this bill, it might have had an adverse effect on premiums. Retrospectivity is also necessary so that the bill can have a positive impact on premiums as quickly as possible. If we allowed everyone already injured to continue to make claims under the current law, it would be years before the costs of claims were reduced. The community cannot afford to wait years.

The Government believes that the limits on damages are fair and necessary. Wherever the line is drawn, some people will be adversely affected. This applies to every law. For example, some people bought their first homes just before the first home owners grant was announced. It is important to remember, however, that most people who will be affected by the change will not be losing out on compensation for economic losses. The bill gives people with claims against the Crown a further opportunity to pursue their claims under the existing law. The State can afford to make this concession without undermining the impact of the reforms on premiums offered by private insurers. The State is a self-insurer.

The Government does not wish to adversely affect claimants unnecessarily if they have been negotiating settlements with the State prior to 20 March. The Opposition claimed that the bill will give insurers a windfall. It said that the Government is not doing enough to change the behaviour of insurers. The bill cannot force insurers to pass on cost savings to consumers; instead, the bill will put in place the necessary reforms to enable premium prices to fall. To ensure that premiums do fall, and that insurers do not make windfall gains from the reforms, the Commonwealth Government must use its regulatory powers. At the urging of State Treasurers, the Commonwealth has now agreed that the Australian Competition and Consumer Commission will monitor premiums to ensure that the insurance industry is adjusting premiums to take account of cost savings produced by tort law reforms.

It is also important to note that in the past insurance companies have apparently not been charging enough for public liability policies. Any cost reductions from the retrospectivity of the bill could therefore help to take the upward pressure off premiums. The Opposition has been critical of the provisions in the bill which deal with legal costs. The Government makes no apology for these provisions. The bill will contain the legal cost of claims, which will help to reduce claim costs. The bill provides for a cap on legal costs.

The cap will be a maximum, and the Government expects that lawyers will often charge less. Solicitors and their clients can contract out of the cap, but only with a costs agreement that complies with the Legal Profession Act. The bill does not stop lawyers from acting for battlers, as has been claimed by the Opposition. The Government responded to concerns expressed about the earlier draft bill by raising the cap on plaintiffs' legal costs to \$10,000 or 20 per cent of the amount recovered, whichever is greater. The cap only applies if the amount of damages in a matter is less than \$100,000. There is no cap on other costs, such as the costs of doctors' reports.

The bill contains costs incentives to encourage plaintiffs and defendants to accept reasonable offers. Finally the bill will stop spurious claims by lawyers. Lawyers will be able to commence a claim only if they can certify that it has reasonable prospects of success. If a court finds that a claim does not meet this test, costs can be awarded against lawyers personally. The Opposition has raised the question of how a defence lawyer should go about complying with the "reasonable prospects of success" requirement when filing a defence. The answer is that defence and indeed plaintiff lawyers should already be turning their minds to the basis of claims and defences. I draw the attention of the House to the statement of the President of the Bar Association, Mr Bret Walker, Senior Counsel, concerning the requirement for lawyers only to file a claim or a defence which has reasonable prospects of success. Mr Walker said:

This is a test which accords well with established ethical requirements, such as Rule 36 of the *New South Wales Barristers' Rules*. See also the well known statement of Barwick CJ, McTiernan and Mason JJ in *Richardson v The Queen* (1974) 131 CLR 116 at 123: "It needs to be stated clearly and explicitly that counsel have a responsibility to the court not to use public time in the pursuit of submissions which are really unarguable."

Mr Walker is, of course, an expert on these matters and an eminent member of the bar. His statement is on the web site of the New South Wales Bar Association. Honourable members may care to read it. The Government recognises, of course, that damages claims are, and should be, settled or mediated, and the bill has costs incentives for both plaintiffs and defendants to accept realistic offers of settlement. It is Government policy to encourage alternative dispute resolution—a policy supported by the legal profession itself. Barristers rules require barristers to inform their clients of alternative dispute resolution options before commencing litigation. I will take a moment to mention stage two of the Government's reform process. We have heard several comments from honourable members about the need for broadly based reform. In recent weeks organisations representing various professionals, especially doctors, have advocated more wide-reaching changes, such as changes to the limitation period and changes to the standard of care expected of a doctor.

The Government is well aware of the need for a far-reaching review of tort law and in fact work is already being done on a major reform package for introduction in the spring parliamentary session. These bigger issues concern more than changes to the level of legal costs and damages that can be awarded in personal injuries claims. They are long-term fundamental issues. These matters are complex. They cannot be addressed by picking up a statute from another jurisdiction and copying it. There is no model for these sorts of changes. We have to develop them. They need to be thought through carefully so that any reforms balance the need to protect the public with the legitimate concerns of small business, professions and public authorities about the unavoidable risks of their activities. I state the obvious point that these changes involve the consideration and adjustment of tort law principles that are several hundred years old. They cannot be simply introduced overnight.

I refer honourable members to a speech recently delivered by the Chief Justice on the need for tort law reform. The speech both demonstrates the need for reform and points to its complexity. The areas being examined include the law governing foreseeability and the duty and standard of care. The legal principles governing these matters have been carefully thought through by the courts over many years. Changing them requires equally careful thought. The basis of negligence law needs to be examined. There are specific areas requiring reform that have already been referred to by the Premier. They include the liability of good Samaritans and other volunteers, the role of warning signs and limitation periods. Special issues arise in relation to certain categories of hazards. These issues relate to inherently dangerous activities and to natural hazards, like a sandbar at a beach, a cliff face or a submerged rock. Various strategies can be used to address these issues.

The Hon. Dr Arthur Chesterfield-Evans has referred to the difficulties faced by operators of amusement parks and adventure tourism. He has suggested the use of standards to govern their liability, instead of tort law.

The Government is well aware of the problems caused by the inherent risks of such activities, and welcomes the suggestion of the honourable member. It will be taken into account in the development of stage two. The Hon. Dr Arthur Chesterfield-Evans has discussed the need to provide for certification mechanisms for professions. The Government has already done so. The Professional Standards Act allows professional groups to have schemes to maintain professional standards approved. Schemes provide for risk management standards, insurance cover and complaints handling mechanisms. In exchange, participating members of professional groups have the advantage of a limitation on their liability. These schemes deliver certainty to professionals while ensuring that the public is protected, by transparent complaints handling mechanisms. Our further bill, incorporating stage two of the Government's tort law reform process, will be introduced in the next parliamentary session. I can assure honourable members that all these issues are being looked at right now by senior officers from a number of agencies.

I now turn to the role of insurers. The Government is doing its part. It expects insurers to pass on reductions in premiums immediately to consumers. The Premier has tabled actuarial advice indicating that premium costs should fall. This is good news for the community. It will be even better news when it happens. Last Thursday, 30 May, Treasurers met to discuss a range of initiatives, many of which were initiated by the Government. I am pleased to advise that the Ministers agreed that the Australian Competition and Consumer Commission [ACCC] would monitor market developments and premium prices, and that the Commonwealth will review the involvement of the ACCC if it becomes clear that cost savings are being made but not passed on to consumers. Ministers also agreed that the lack of comprehensive data on claims costs was a significant constraint in the appropriate pricing of premiums by the insurance industry for not-for-profit, adventure tourism and sporting groups.

At the urging of State Ministers, the Commonwealth has agreed to use the Financial Sector (Collection of Data) Act 2001 and require all authorised insurers operating in Australia to submit claims data to the Australian Prudential Regulation Authority (APRA) for analysis and publication. Consultations to develop a consistent methodology will begin shortly. The States and Territories also agreed to contribute similar claims data from State insurers and local government insurance mutuals to assist in the understanding of public liability insurance. Ministers also agreed on the need for a nationally consistent methodology for courts statistics and asked the Standing Committee of Attorneys-General to consider this as a high priority. Ministers agreed that the Productivity Commission be asked to benchmark Australian insurers' claims management practices against world standards and report by December 2002.

Ministers agreed that these proposed actions, combined with broad-based tort law reforms, will over the long term deliver consistency and predictability. However, they will not address short term availability and affordability issues. Ministers, therefore, called on the insurance industry to respond promptly and constructively to the issues facing particular groups in obtaining public liability cover and rising premiums. The Commonwealth Government has the responsibility under the Commonwealth Constitution to regulate the insurance industry. It has been encouraged by us on many occasions to do so and it must do so. The Hon. Ian Cohen advocated the re-establishment of a State insurer, to step in where the insurance market fails. The Government would be prepared to listen to a proposal for a national scheme to underwrite liability but it must be done on a national basis.

Ms Lee Rhiannon referred to group buying schemes. The honourable member may not be aware that the State Government recently gave approximately \$200,000 to the Council of Social Service of New South Wales [NCOSS] to develop a group buying scheme for community organisations. Finally, I want to acknowledge the constructive role that has been played by the many individuals and organisations who commented on the draft bill, released three weeks ago, including members of the judiciary, and representatives of the Bar Association and Law Society, the Insurance Council of Australia, and the Local Government and Shires Association. I look forward to the further consultation on the next stage of reform. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time.**

### **Suspension of Standing Orders**

**Motion by Reverend the Hon. Fred Nile agreed to:**

That standing orders be suspended to allow the moving of a motion forthwith that it be an instruction to the Committee of the Whole that it has power to consider an amendment relating to an insurance industry ombudsman scheme.

### Instruction to Committee of the Whole

#### Motion by Reverend the Hon. Fred Nile agreed to:

That it be an instruction to the Committee of the Whole that it has power to consider an amendment relating to an insurance industry ombudsman scheme.

### DRUG SUMMIT LEGISLATIVE RESPONSE AMENDMENT (TRIAL PERIOD EXTENSION) BILL

#### Second Reading

**The Hon. CARMEL TEBBUTT** (Minister for Juvenile Justice, Minister Assisting the Premier on Youth, and Minister Assisting the Minister for the Environment) [5.02 p.m.]: I move:

That this bill be now read a second time.

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

#### Leave granted.

I am pleased to introduce the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill.

The purpose of the bill is to extend the trial period of the medically supervised injecting centre operated by Uniting Care, a ministry of the Uniting Church, in Kings Cross.

The effect of the change is that the trial becomes a 30-month trial rather than an 18-month trial.

The trial will now conclude on 31 October 2003.

Consequential amendments in the bill ensure that the current licence, the terms and conditions for operating the centre and all other aspects relating to the licence and the trial remain unchanged for the additional period.

The 12-month extension is required to allow the centre to remain operating until the final report of the independent Evaluation Committee is delivered.

The extension period will provide for a period of community consultation and parliamentary debate.

The Government has made this decision based on advice from the New South Wales Expert Advisory Group on Drugs in February 2002 that:

... consideration be given to extending the trial of the medically supervised injecting centre to allow the government of the day to receive the report from the evaluation committee and sufficient time for consideration of the policy implications of all of the findings.

It is logical and commonsense to leave the centre operating while we wait for the independent evaluation of the trial.

Such a course is also consistent with this Government's evidence-based approach to drug policy.

Closing the doors without waiting for the scientific evaluation results would be pre-emptive.

The Government has funded a very comprehensive and independent evaluation.

The evaluation is being undertaken pursuant to an agreed and published protocol primarily developed by the National Drug and Alcohol Research Centre.

The evaluation protocol was published on 30 April 2001.

The Evaluation Committee comprises Professor John Kaldor from the National Centre for HIV Epidemiology and Clinical Research;

Professor Richard Mattick, Executive Director of the National Drug and Alcohol Research Centre;

Dr Don Weatherburn, Director of the Bureau of Crime Statistics and Research; and

Ms Helen Lapsley, formerly a senior lecturer in health economics at the University of New South Wales.

There are three components to the evaluation: first, the process evaluation of the centre's operations and service delivery; second, the impact evaluation of the centre, which is assessing five areas, namely, the public health impact, the impact on treatment uptake and client health, the public amenity impact, and the impacts on drug dealing and other crime, and on community attitudes; and, third, an economic evaluation.

This evaluation analysis will cover a period of 18 months—that is, from May 2000, when the centre opened, to October 2002.

The evaluation team is providing regular reports on the first component of the evaluation, that is, the process or operational aspects of the medically supervised injecting centre trial.

Three-monthly process reports have been received by the Government and publicly released by the evaluators.

The two other components of the evaluation—the impact evaluation and the economic evaluation—are long-term studies. These are to be reported on after the conclusion of the 18-month period.

Some data associated with the evaluation cannot be collected until the end of or after the period under review. That data must then be properly and scientifically processed and written up.

The Government has been advised that the final report of the evaluators, which will include findings on all three components of the evaluation, will be completed and available for consideration by the end of April 2003.

I can advise the House that the 12-month interim process report was released by the Independent Evaluation Committee on the 24<sup>th</sup> of May and has been made available to all parties and members of the crossbench.

The New South Wales Government views as encouraging the process and operational results in the process reports and other information to hand.

There is evidence that lives have potentially been saved, and that people at most risk have been helped towards treatment, health and social services.

The centre's management has indicated that a large number of the visitors to the medically supervised injecting centre are people who have no other contact with the health system.

Overdose deaths have dropped in New South Wales.

Ambulance call-out rates to non-fatal overdoses have been falling in Kings Cross and nearby Darlinghurst for over 12 months and have continued to fall during the period of the trial.

Notwithstanding these observations, the New South Wales Government will continue to view all results with caution.

That is why we will wait for the evaluators to submit their final report before making judgements.

I turn now to the major provisions in the bill.

This bill amends the Drug Misuse and Trafficking Act 1985.

Part 2A of the Drug Misuse and Trafficking Act 1985 currently permits the operation and use, under licence, of a single medically supervised injecting centre, but restricts the period during which such a licence can have effect to a trial period of 18 months.

For the reasons I have outlined, amendments are necessary so as to extend the trial from 18 months to 30 months.

These amendments are contained in schedule 1 to the bill. Section 36A is amended to omit "18 months" and insert instead "30 months" for the trial period for which a licence is issued under part 2A of the Drug Misuse and Trafficking Act 1985.

An identical amendment is made to the definition of the "trial period" in section 36D to ensure that it is now defined as a period of 30 months.

These two amendments implement the main object of the bill, which is to extend the period of the trial from October 2002 to October 2003.

A number of consequential amendments have also been made.

Section 36B is amended so as to ensure that the period for which a review must be conducted into the operation and use of the licensed injecting centre remains the current trial period of 18 months, and not the extended trial period of 30 months.

The original legislation which established the trial requires the responsible authorities, that is the Commissioner of Police and the Director-General of the Department of Health, to arrange for a review of the operation and use of the centre, part 2A of the Drug Misuse and Trafficking Act 1985 and any regulations which may be made.

This review by the Commissioner of Police and the Director-General of New South Wales Health, is separate from the comprehensive independent evaluation commissioned by the Government.

It is concerned with the operational aspects of the centre and the legislative provisions that govern these operations.

However, for consistency the review should cover the same period as the evaluation, that is, the first 18 months of the trial, and will be informed by the published data of the evaluation.

The review will be available for consideration during the period allowed for consultation and parliamentary scrutiny after April 2003.

I should also point out that while the review and the formal evaluation will cover the 18 month period of the trial, process and operational data will continue to be collected from the centre up to October 2003.

Section 36G, which relates to the duration of the licence, is amended so as to extend to 30 months the period for which the current licence is in force.

A new section 36T is inserted into the Drug Misuse and Trafficking Act 1985 to provide that the licence currently in force be extended for the whole of the new trial period of 30 months.

This section also provides that the extension of the licence may not be challenged in the courts.

Honourable members should be quite clear. This bill does not change the current licence holder or any of the licence conditions under which the current trial is operating, except for the length of the trial.

Finally, for avoidance of doubt, section 36T also provides that section 36Q, which covers the application of the Environmental Planning and Assessment Act 1979, applies with respect to the whole of the extended trial period.

This is a trial with national and international significance.

Let us not rush to judgment but wait until the evidence is collected and we can all carefully consider the findings.

I commend the bill to the House.

**The Hon. IAN COHEN** [5.02 p.m.]: The Greens support the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill. I congratulate the Government on its decision to extend the trial period by 12 months to enable the medically supervised injecting room to remain open until the final report of the independent evaluation committee is delivered in April next year. From early statistics available, it appears the medically supervised injecting room has been an overwhelming success. As at the end of last month, after 11 months of operation, there had been more than 400 referrals into drug treatment, more than 200 overdoses and no deaths. In anyone's language, that is a resounding success. Those involved with the injecting room are to be congratulated on their efforts and on those results.

The centre has the capacity to supervise and medically manage 200 injecting episodes a day in two open sessions of four hours each. Sixteen people can use the facility simultaneously. So far, more than 2,600 drug users have registered with the centre, making a total of about 30,000 visits since it opened its doors. It appears that overdose fatalities and ambulance responses to non-fatal overdoses in the local area have significantly dropped. Local police also appear to support the injecting room. Superintendent Dave Darcy, who I understand is now in charge of the precinct at Kings Cross, said on ABC news on 28 April:

The injecting centre has played a significant role in preventing people from dying of drug overdoses.

I understand that today the lower House voted on this bill and that Coalition members were afforded a conscience vote. I understand Mr John Brogden, Leader of the Opposition, voted in support of the extension of the injection room trial. I rang his office to offer my congratulations. It is a step in the right direction on such an important human rights issue. Given the contentious nature of this matter, it was admirable of the Leader of the Opposition in the lower House to have voted that way. That moves the debate significantly forward, with a new generation of thinking on these very vexed issues.

Some cynics may say that this is an attempt by the Government to duck an election issue. In actual fact, it is appropriate that the trial be extended and that there be a full evaluation of the operation of this important trial. The evaluation should be conducted away from the heat of an election campaign. That will enable the information gathered from the trial to be used appropriately. I have some experience with this matter, having been on the safe injection room committee and having investigated a number of such sites in Switzerland, Holland, The Netherlands and Frankfurt. I am able to say, having visited those overseas centres and having visited the Kings Cross medically supervised injection room on two occasions—

**The Hon. John Ryan:** What we have is uniquely Australian.

**The Hon. IAN COHEN:** The honourable member is right. This centre suits the clientele and the existing environment at Kings Cross and affords an advanced system of assistance to clients. It compares very favourably with any centre that I saw overseas. In fact, this type of facility and trial would have to be regarded as world's best practice. It is gratifying that people such as Dr Ingrid Van Beek, who has been working on this issue for many years, are consistent in their support for those suffering from the terrible ravages of hard drug use and drug dependency. Dr Van Beek has been working constructively and effectively on needle exchange programs and other activities just a short way from the site of the medically supervised injection centre.

Honourable members of this House often succumb to the temptation to call this centre a shooting gallery. I would like to clarify the point. A shooting gallery is an illegal room that is not set up appropriately or

in a clinical manner. It is offensive to compare this medically supervised injection centre to a shooting gallery. During the safe injection room inquiries Ann Symonds, the chair of the committee at the time, I and others went to a shooting gallery. Those who have seen both types of facilities know that there is absolutely no comparison between them. It is interesting that Mr Rob Oakeshott, the Independent member for Port Macquarie, said he supported the extension of the injection room trial.

**The Hon. Rick Colless:** He has crucified his chances at the next election.

**The Hon. IAN COHEN:** He is saying the right thing, whether or not he will be crucified for that later on. I have just been to Port Macquarie, met many people in the area and discussed these issues with Rob Oakeshott, and I am sure he will be a strong competitor for the National Party at the next election. He is a well liked and respected local member. He is a very well-liked and respected local parliamentary representative of that area. He stated:

All sides of politics who are trying to either criticise people such as myself or others who support the extension of a one-off trial will be politically slandered.

He made those statements on ABC news on 14 May 2002. An Australian Associated Press [AAP] article dated Friday 24 May reports that researchers have found positives in Sydney's drug injection room. The article also stated:

The progress report, released today, said that 2,729 people had injected heroin, cocaine or other drugs during the facility's first 12 months at King's Cross in Sydney.

A senior criminologist who worked on the report said the service had not been a catalyst for crime and social problems, despite the fears of critics that it would have a "honey pot" effect by attracting drug dealers and drug users.

Dr Don Weatherburn, from the NSW Bureau of Crime Statistics, said: "This interim report provides little evidence of any significant increase in loitering and no evidence of any increase in drug-related crime."

Dr Weatherburn and the other evaluators of the service said that based on the research, the operation of the facility "continues to be feasible".

The report found that in the first 12 months of operation, male clients outnumbered females by more than two to one and heroin was the most frequently used drug.

Users overdosed on 250 occasions but there were no deaths.

So 250 lives were saved, and somewhere the parents of those who use the centre were thankful that the drug-taking by their children took place in an appropriate and proper facility and not in a lonely, unsanitary room in an illegal shooting gallery or somewhere in the back streets between motor vehicles away from the gaze of police. The article also states:

And in about a third of more than 31,000 visits, users were given health care services.

The NSW Premier, Bob Carr, said the report made clear that some of the "far-fetched things" predicted about the injection room had not occurred.

I heartily agree with the Premier's comments. The article went on to state:

"But anytime you deal with this terrible problem of heroin, you've got to be very cautious," ...

"This injecting room is only one part of the solution."

Again I agree with the Premier. I certainly would not suggest that the injecting room concept resolves all the problems. It is just one aspect of a multifaceted campaign that needs to be undertaken to accommodate injecting drug users at various stages of their addiction. Drug users range from recreational drug users to the hard-core, heavily addicted individuals caught in a downward spiral who need help. This facility is appropriately situated and is in a rare position to offer help to drug users. That it has already helped, and saved the lives of, 250 people is testimony to its effectiveness.

It is interesting to note that the Leader of the New South Wales Opposition, John Brogden, does not regard the interim report as divisive. He indicated that the Opposition would deal with it in a mature manner, and that has been the case. Members of the Opposition have been given a conscience vote on the issue. I am very pleased that the Leader of the Opposition has taken a true leadership role in this regard.

**The Hon. Carmel Tebbutt:** Then why are they not supporting it?

**Reverend the Hon. Fred Nile:** Has the ALP taken a conscience vote?

**The Hon. IAN COHEN:** There is cross-interjection expressing opposite points of view. In response to the Minister's comment might I say that it is significant that the Opposition has at least moved from a position of rigid opposition not so long ago to that of allowing its members a conscience vote.

**The Hon. Carmel Tebbutt:** I look forward to seeing how they vote on it.

**The Hon. IAN COHEN:** I must say that when parties—Government or otherwise—come up with the goods, they find that the Greens are very supportive. I have always been supportive of the Government's position. I commend the Special Minister of State for the role he has played from the time of the Drug Summit to date and for consistently working towards achieving reasonable goals for the process. Since the establishment of the injecting room, the Kings Cross business people have been very quiet. Fears were expressed that the injecting centre would deter people from supporting businesses in Kings Cross. However, studies have shown that pedestrian flows have actually increased since the service opened on Darlinghurst Road in the centre of the commercial area. The AAP article states further:

... there was no indication that the facility had any effect on either theft or stealing with violence offences.

Professor Richard Mattick, the Director of the National Drug and Alcohol Research Centre, said the evaluation showed the medically supervised injecting centre continued to be well used and had successfully handled a substantial number of overdoses.

"(The centre) has also referred many clients onto drug treatment, medical services and social welfare agencies."

The essential point is that people who are addicted, down and out, completely defeated by life and struggling to survive are able to use clean facilities under the watchful eye of medical staff, at a centre where there are people to talk to and information to read while they are waiting—although I understand that the facility is operated so efficiently that there is virtually no waiting. People receive treatment very quickly and with a minimum of fuss. There are no queues. After the addicts use the drugs in very sterile and hygienic conditions, they move to the rear of the premises where they sit for a while and have a cup of coffee while their condition is monitored. The process ensures that the addicts do not slip into a comatose state—a very dangerous indicator as far as the injection of heroin is concerned.

It is quite clear that the centre is working. I am very impressed with the quality of the staff at the facility, the service that is available there and the facility itself. An independent report confirms that the trial has not produced a honey-pot effect for drug dealing and associated crime. I am interested to hear more comments on that. While there may be ongoing complaints from local business people, I understand that there has been little impact on commercial activity in Kings Cross. Recently, late one night during a parliamentary sitting, I had cause to go to a chemist shop in that area. While there I saw David Darcy and a number of police officers walking along the main street. It seemed to me that, if anything, there is now a more relaxed atmosphere in the area than was previously the case.

Injecting rooms, used in conjunction with other facilities and opportunities provided for drug addicts, have a role to play in launching an effective and concerted attack on the drug problem in New South Wales. Once again I congratulate the Government on its initiative in dealing with that problem. I support the extension of the injection room trial. The evaluation report on the centre by Professor Kaldor, Ms Lapsley, Professor Mattick and Dr Don Weatherburn is adequate. The process has been transparent and I believe the trial has been very successful. It has helped to save lives and it is actively and appropriately dealing with drug addiction. The initiative will stand the test of time and it will be the benchmark for others to deal with drug addiction and to advance debate on the subject. Ann Symonds, the former Chair of the safe injecting room committee, did a wonderful job of informing many people about this issue. She worked tirelessly in her campaign for people's human rights.

**The Hon. John Jobling:** Pat Staunton was the original Chair.

**The Hon. IAN COHEN:** The Hon. John Jobling is correct; Pat Staunton was the original Chair. Midway through the committee's trip to Europe she left, on instructions from the Government, to assume a position as a magistrate. Both Pat Staunton and Ann Symonds did an adequate job—Ann Symonds championed this cause for many years—and they deserve congratulations for constructively promoting this issue. I look forward to seeing the results of an extended trial of the medically supervised injecting room. I am already convinced—and we have evidence to show—that this is a positive step in the right direction.



**The Hon. JOHN JOBLING** [5.21 p.m.]: If the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill is passed it will extend the trial period of the medically supervised injecting room from 18 months to 30 months. I state at the outset that, after much consideration, it has been agreed that all Coalition members have the right to vote on this legislation according to their conscience, as happened in the lower House. A great many of the remarks made earlier in debate on this issue by the Hon. Ian Cohen are valid. The medically supervised injecting room at Kings Cross is, without doubt, well presented and equipped. It would probably be fair to describe that injecting room as a world-class facility.

Many views have been expressed about how to overcome a health problem that exists in this State. One desirable option that has been put forward is to permit for a trial period the operation and use of an injecting room. I, like the Hon. Ian Cohen, was fortunate to be a member of a small group that travelled to the Netherlands, Switzerland and Germany to examine shooting galleries in those countries. The galleries ranged from clinically sterile facilities to facilities that were adequately resourced and equipped. Drug users who visited those facilities were able to have something to eat before injecting heroin or cocaine—or a mixture of both drugs—into their systems. They were then able to spend some time at those facilities before leaving to travel home.

I am somewhat concerned and troubled about the proposed extension of the trial of this medically supervised injecting room. Such a trial would normally have a scientific basis. Scientific trials, which involve double blind tests and other issues, are normally conducted at more than one location. As we are restricted to only one injecting room it is difficult to determine the validity of such a trial. Quite obviously, we cannot submit users to a double blind test as they would be injecting a saline solution and not heroin. The conundrum with which we are faced is how to determine the validity of such a trial. Will the use of a single site create problems for users? I am concerned about the outcome of such a trial.

I reluctantly agree that an injecting room is a last resort for desperate people who have sunk into the depths of hell. However, those desperate people represent a minute percentage of our drug-dependent population. A lot of money has been spent on establishing and running this injecting room. If I were satisfied that that money was being spent wisely and that it was producing results it would overcome my concerns about the validity of such a trial. The Federal Government has had a great deal of success in preventing the importation of illegal drugs. Large quantities of drugs have been intercepted.

*[Interruption]*

Is the Minister for Police suggesting that is not the case? Is he suggesting that the police force is not doing its job? He should be more careful in relation to what he says about a force that he is supposed to represent. The police force is doing a good job under difficult circumstances. I—and I am sure most reasonable people in this Chamber—would prefer drug users to be educated. Most people would agree that it is desirable to assist drug users and those who have descended into this hell to regain their lives. However, a large amount of money has to be spent on rehabilitation and support. If drug users who have gone through detoxification find themselves with nowhere to live, no support and no friends, they will inevitably regress. We must urgently address that issue.

How many of the statistics with which we have been provided have been based on what might be called the current heroin drought? Drug taking is a fact of life. We must question the outcome of drug taking in other parts of the world, in particular in the Golden Triangle. The single trial that is being conducted in New South Wales cannot be compared with statistics that are emanating from injecting rooms in Germany, Switzerland and the Netherlands. The scientific community is seriously questioning the conclusions that have been reached—an issue about which debate is continuing.

The countries to which I referred earlier have been operating a large number of injecting rooms for a long period. What will be achieved if we extend the trial period of the medically supervised injecting room for six months? Will such an extension increase our knowledge and understanding of drug use in this State? The initial trial, which was for 18 months, was to be reviewed by an independent evaluation committee.

I also have problems with that. It has been reported that the injecting room has some 2,729 registered clients. Reference has been made to the number of overdoses that have occurred in the clinic. Had the clinic not been in existence, I wonder how many of those people would have recovered and how many would have been taken to hospital by ambulance. It is a sweeping statement, which is perhaps more emotional than factual, to say that therefore 250 lives were saved. If it is true that 250 lives were saved, that is desirable, because we then have the opportunity to do something with those people and try to get them off the drug they are using.

It has been suggested that there were some 446 referrals for drug treatment. However, we need to look at the form of drug treatment administered, whether it was for the purpose of detoxification, whether the treatment involved transfer to a methadone program, how long the treatment was administered, how many people succeeded in completing the treatment program, how many have continued to remain drug free and how many have regressed to their former state. It is very difficult to obtain objective statistics that will stand up to scientific analysis.

It has been suggested that one in 31 visits results in a referral to other services, and that this suggests the service is meeting its objective and acting as an interface to drug treatment. I would like to think that that is so, but ultimately what are the outcomes? It is useful to compare the New South Wales figures with those of other States that do not have medically supervised injecting rooms. In Victoria, which to my knowledge does not have a medically supervised injecting room, overdose deaths dropped from 359 in 1999 to 49 in 2001, and to just 11 thus far this year.

In Western Australia, which also does not have a medically supervised injecting room, overdose deaths dropped from 83 in 2000 to 36 in 2001, and to just three thus far this year. When one looks at the figures set out in some of the documents produced by the Government, one wonders why the number of needles and syringes given away on 2,175 occasions averaged 8.25 per customer. One also wonders whether the majority of drug users are in fact using the injecting room or simply using the drugs at home. We do not know how many of the people who overdosed were subjected to reanimation, as it is referred to overseas, or the use of oxygen, as opposed to naltrexone, buprenorphine or other drugs. We also do not know at what stage such treatment was given or at what stage an ambulance may have been called to take the person to hospital for specific treatment.

The Cabramatta anti-drug strategy has been implemented in a broad context. Since December 2000 there has been a heroin shortage. The figures I have referred to have been drawn from a document entitled "Cabramatta—A Report on Progress", an ActNow publication produced by the New South Wales Government in April 2002, which the Premier forwarded to me and, I suspect, other honourable members. In reference to Cabramatta the document states:

- the NSW Bureau of Crime Statistics and Research has recorded a 63.9 percent fall in the number of possession/use of narcotics (heroin) offences since December 2000.
- In 2001, there was a substantial decline in the number of needles and syringes dispensed to drug users in the Cabramatta/Fairfield area:
- the number of needles dispensed dropped from 195,420 in October-December 2000 to 46,140 in the equivalent period for 2001.

It would be interesting to know why that happened in Cabramatta, which does not have a supervised injecting room. The document continues:

- the number of needles dispensed from the Drug Intervention Service Cabramatta van dropped from 40,239 in January 2001 to 9,991 in January 2002.

The figures cover the period over which the injecting room trial has taken place in Kings Cross. Clearly, an inference cannot be drawn that all the people referred to in the survey attended the Kings Cross injecting room. The document goes on:

- There has been an overall decrease in the number of drug related deaths. In the six months after 1 July 2001, there were five drug related deaths in the Cabramatta area compared to 24 deaths in the corresponding period for 2000.

After nothing more than a change in policing and attitude, the number of overdose fatalities fell from 24 to five. Again, one wonders why. The document goes on further:

- The number of ambulance call-outs in Cabramatta to suspected overdose incidents has fallen dramatically. There were 15 call-outs in the six months after 1 July 2001 compared to 385 call-outs in the corresponding period for 2000.

I suspect that the heroin drought and an increased police presence have contributed to those figures. If this is the case in Cabramatta, one has to ponder the statistics that may be put forward to claim the success of the Kings Cross injecting room. Chapter 2 of the document, headed "A Compulsory Treatment Plan—Breaking the Drug-Crime Cycle", deals with reducing drug use, stopping re-offending, creating better opportunities for treatment, and forging more effective links to services.

The views I have expressed are obviously my own views, because without doubt this involves a conscience vote. Some of my colleagues may choose to disagree with me entirely, and that is their right. I am

concerned about the hepatitis C virus, which appears to be on the increase as it is connected to drug use. The virus is listed in the final draft paper prepared by the University of New South Wales National Centre for HIV Epidemiology and Clinical Research dated 6 May 2002.

That paper ponders why this is happening. Estimates of the prevalence and incidence of the hepatitis C virus are based on the assumption that injecting drug use trends of the mid-1990s have continued through to 2001. The assumption in this paper is scientifically unsound, but the question remains why it is so. Kings Cross is one matter and Cabramatta is another. Kings Cross has an injecting room, and there lies the problem: there is only one injecting room. If the injecting room is to be deemed to be successful, it must be replicated. In this case the question is why is Cabramatta showing such a success rate?

**The Hon. John Della Bosca:** A good local member.

**The Hon. JOHN JOBLING:** I have heard many things in fairyland, but I wonder why I deign to give credence to one of the most incredible interjections that I have heard. The local member has done more 180-degree backflips and changed her position so many times that, had she continued on her way, she would have brought the Government down herself. The Special Minister of State is well aware of the problems that that caused him, as he had to wallpaper over the cracks.

**The Hon. John Della Bosca:** You are putting her success on the record.

**The Hon. JOHN JOBLING:** I am not putting her success on the record. I am putting on the record what other people have done that she would not admit needed to be done. One could well ask whether the proposal to extend the trial period and the so-called trial figures—which should be compared to Cabramatta and other places—should be taken out of the realm of politics? It is difficult to say that is not so. It is difficult to assume that that is not the intention of the Government, because it is afraid of what may come out. Again, some of my colleagues may disagree with me, and that is their right.

I am reluctant to come to a firm conclusion that an extension of the trial period from 18 months to 30 months will achieve any more than is known now. I do not believe the trial is scientifically based. I do not believe that the evidence being gathered from users—the claims of lives saved, the suggestion of less crime, the question whether the number of people using the Kings Cross centre is increasing, and the question whether local commercial entities are satisfied—has been satisfactorily addressed. I still hold the view that in certain circumstances a legalised medically supervised injecting room has a limited place, but I do not believe that any more than is known at this stage will be gained by the extension of the trial. Therefore, as we will not have a conscience vote and in view of the Cabramatta document put out by the Government, I have reluctantly come to the conclusion that I can see no benefit in extending the trial from 18 months to 30 months, and on this occasion I will oppose the bill.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [5.43 p.m.]: When I was engaged in activist politics—quite some time before I came to this House—I found it a problem to work out whether one should support wimpy governments.

**The Hon. John Della Bosca:** Are you inactive now? Aren't you active any more?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I was engaged in activist politics. I am now participating in conservative, conventional politics but it does not do as much good. In those days I found it difficult to decide whether to support wimpy governments that were moving at glacial pace but in the right direction or whether to criticise them for having so much power, doing so little and being so wimpy. Today I think I will take the latter course. Sadly, governments that should do more do not do so. I must also say that the Hon. John Jobling's display was even wimpier.

I note that in this budget the Government is allocating an extra \$83 million for gaols, as a result of the Bail Act. People who repeatedly offend against the Bail Act are very often drug affected. There is no point sending them a message; they are basically looking for money to buy more drugs. As has been well documented in the Select Committee on the Increase in Prisoner Population, between 70 per cent and 80 per cent of people committing crimes do so for drug-related causes. The gaol population is at a record level—7,800, according to the Treasurer's Budget Speech—and those numbers will increase following the \$117 million allocation for new gaols. In contrast, \$44 million is provided for 40 new mental health hospital beds. A person with a mental health problem most likely will have to go to gaol to receive treatment.

How many mentally ill people are dually diagnosed with drug problems is not stated. Certainly the possibilities for doing something about drugs rather than putting the money into gaols are very great, but the Government is missing those opportunities. It is pandering to the shock jocks in the most appalling manner. The Government started brightly enough in 1999, more or less immediately after the election, by holding the Drug Summit. The mood of that Drug Summit was that the Government could go a lot faster and still remain within the limitations of respectable, mainstream public opinion. In other words, the Government could have done a lot more about drug rehabilitation and drug treatment and a lot less of putting people in gaol, if it had the guts.

The Government did not try to decriminalise marijuana. That happened in South Australia without any hugely adverse effect on society. The New South Wales Government did not do very much except set up a drug injecting trial. That trial was delayed by the fuss about who would run it. The Government did not grasp the nettle and do the trial logically through the Health Department, or through methadone clinics in doctors surgeries. The Government simply set up the injecting room trial and subcontracted it out to a religious group, but that group seemed to get into trouble with the Pope. The American Government persisted with its attitude that heroin should remain illegal, and the Pope influenced those who were offering to subcontract to deliver the trial.

**Reverend the Hon. Fred Nile:** You can thank me for that, because I requested it.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is Reverend the Hon. Fred Nile claiming that he influenced the Pope to interfere with the trial?

**Reverend the Hon. Fred Nile:** I wrote a letter containing all the information.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** What a success that was! Effectively, the trial was delayed and, disappointingly enough, it only happened in Kings Cross. Now the 12-month evaluation report of that trial is out, and I appreciate that it was sent me by the Special Minister of State. The evaluators were Professor Kaldor, from the National Centre in HIV Epidemiology and Clinical Research, University of New South Wales; Dr Helen Lapsley, from the School of Public Health and Community Medicine, University of New South Wales, who is famous for her work on the economic effects of drugs, particularly tobacco and alcohol; Professor Mattick, from the National Drug and Alcohol Research Centre, University of New South Wales; and Dr Don Weatherburn of the Bureau of Crime Statistics and Research. They are a particularly eminent team of people. The research co-ordinators were Ms Kimber and Dr MacDonald from the National Centre in HIV Epidemiology and Clinical Research at the University of New South Wales and the National Drug and Alcohol Research Centre at the University of New South Wales respectively. These people with first-class credentials have written what amounts to a very competent report.

The nature of this report has been addressed by the Hon. John Jobling, who referred to the lack of a control group. The idea that a group of people could inject water or saline instead of heroin to see what the effects were, or that a group could simply monitor crime on the street to see whether the injecting centre made any difference, has huge methodological problems. So this is a descriptive study, in a sense. As such, it must be remembered that we are talking about other options: people injecting in their own homes, if they are unemployed; the strength of the heroin, how diluted it is, is not known to users in many cases, particularly when there is a heroin shortage; if a hot shot, as it is called—in other words, a less diluted heroin concentration—is being used there is a great danger of overdose, even in the best-intentioned users who do not have suicidal intent.

There is a danger of people dying in the gutter, in a squat or alone. I have experience of this. One night some years ago I did a house call in Meadowbank when I was working on the after-hours cars as the after-hours doctor. Luckily for me, the address was just around the corner so I ducked into the house much more quickly than normal. When I got to the house there was an anxious looking man, an anxious looking young girl and a fellow on the bed who was looking very blue. I asked what had happened because the fellow was not breathing at all, and he was turning bluer and bluer. I started mouth-to-mouth resuscitation on him, and between breaths asked what had happened. The friend—who was a burly fellow—said he was a policeman and he had been drinking with his friend in the pub, which was just around the corner.

The fellow had gone outside and spoken to a bloke for a minute, come in, was about to play pool, and had then collapsed on the floor. So the burly fellow, who turned out to be a policeman, picked up his mate, carried him across the road to where he lived and dumped him on the bed. He was quite discouraged that his mate was not breathing and had rung me. I did mouth-to-mouth resuscitation for a little longer—fortunately the

fellow still had a pulse and eventually woke up. When I asked him how he was feeling he said, "Who the hell are you?" I said, "I'm a doctor. I have just been doing a bit of mouth-to-mouth on you, mate. You weren't breathing too well." He said, "I don't want you here. Get lost." I said, "Actually, I have been doing some good, funnily enough."

The woman, who turned out to be his girlfriend, said, "Yeah, the doctor has just saved your life. You should be grateful." At least someone was speaking up for me. As the conversation progressed it turned out that he had tried heroin when he had gone outside the pub; he had had a shot of heroin in the hallway. He had then taken a couple of steps to his next shot at the pool table. The heroin had gone up his veins and he collapsed on the floor virtually immediately. His mate was unimpressed by this and said, "I won't be your mate if you are going to use heroin." He was very cross. I said, "That'll be \$21, mate." The fellow who had overdosed said, "I'm not paying that." I said, "Isn't your life worth \$21?" I must confess that for a long time I had wanted to use that phrase on people who refused to pay. The fellow's girlfriend said, "The doctor has done a good job here. He's worth \$21 and I'm going to pay him anyway." So she did, and I earned some money.

The arbitrariness of the situation—it was extremely lucky that I was close to this address, which normally I would not have been—and the hit and miss of resuscitating a person who has overdosed like that were extraordinary in that case. The statistics in the summary of this descriptive study show that there were 250 drug overdose incidents requiring clinical management at a rate of eight overdoses per 1,000 visits, 184 heroin overdoses, 50 cases of cocaine-related toxicity, eight benzodiazepine overdoses and eight non-heroin opioid overdoses. Some 250 drug overdoses is a large number and I would have thought there would be some fatalities in an untreated situation. It is difficult to believe that there would not be fatalities in an untreated situation. Therefore, we can say that the clinic at this place in Sydney where the trial is taking place is saving lives. That is a critical factor. The executive summary of the 12-month evaluation states:

- During the twelve months of operation, 2,729 individuals were assessed and registered to use the services ...
- Registered clients made 31,675 visits ... during which their injection of drugs was supervised.
- The majority of these registered clients were male (71%), and less than one-third were female (28%). Male clients accounted for majority of visits (61%).
- Heroin was the drug most frequently used ... (injected on 50% of the visits) followed by cocaine (injected on 42% of the visits).
- Clients made an average of 12 visits in the twelve months (range = 1 to 535). The average time spent ... per visit was approximately 28 minutes.
- On approximately one in ... three visits, a health care service was provided to the clients (in addition to the supervision of their injecting). Over half of the occasions of service were injecting and vein-care advice (55%).
- ... one in 31 visits resulted in a referral for further assistance. Among the 1007 referrals for further assistance, 44% were for the treatment of drug dependence, 31% were to primary health-care facilities and 25% were to social welfare services.

More than 1,000 people who are particularly inaccessible to health services and treatment services are getting help that is being intelligently directed by people they trust. That is a major breakthrough. I have run health promotion in the work force, and I know that it is difficult to get through to people that they should stop using alcohol or cut their alcohol consumption. One must take off the white coat and be seen as a helpful person who is speaking without any authoritarian airs and graces. I understand that this is quite an achievement. To have a scenario in which interaction can take place is extremely important. Those who criticise and sneer at the injecting room do not understand that such a facility provides the potential for real interaction. People are concerned about loitering, untidiness, street crime and so on. Figures on those matters are part of the sociological impact of the medically supervised injecting centre, and appear in the 12-month evaluation report. Basically, the incidence of loitering was very low because, of course, people do not loiter; they go into the centre. What would one expect them to do?

I could detail the figures and graphs but they are a little complicated. Loitering does not seem to have been a serious problem. The findings on crime do not indicate that the medically supervised injecting centre had any effect on either theft or violent acquisitive offences in the Kings Cross local area command. The number of theft offences decreased. The cause of that decrease is unclear, but it is unlikely to be the result of the medically supervised injecting centre. So the Government is not making any wild claims that it was responsible for the decline in crime. Basically, in 12 months the injecting centre has treated at least 250 overdoses and has referred

more than 1,000 people in a particularly unavailable group for further medical help. When this successful result has been achieved and people throughout the country, in inner-city areas and in suburban cities and towns, are begging for facilities like this, why do we merely say that we will further evaluate the injecting room? I think it is because the Government does not want to say that the Department of Health has the guts to do this, it recognises a success when it sees one, this evaluation is adequate and we should proceed.

I do not know why the Government is being so wimpy and prolonging the trial instead of drawing conclusions based on the best evidence and opening a lot more injecting centres. I believe that is what it should be doing. The Coalition is so wimpy that it cannot take a position on the issue and, instead, its members will take a conscience vote. Do we praise the Coalition for moving from outright opposition to a conscience vote? Do we say that it has at least come part of the way and, perhaps, in a few more years it will look at evidence and do something more enlightened than prohibition? Do we praise the Coalition for not coming very far or do we criticise it for being so wimpy? I believe that if you have a job, you ought to do it; when you see a challenge, you ought to take it; if you are a leader, you ought to lead. The Government should do more than simply prolong the trial—it should declare the trial a success and have a profusion of these centres to meet the needs of drug-addicted people.

**Reverend the Hon. Fred Nile:** In every suburb and every town?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Like other health facilities, they should meet the need. We do not create the need. The object of the Department of Health is to meet the need, not to create it. That is the key for every other aspect of health, so I do not see why it should not apply in relation to drugs and alcohol. If the pubs of the nation can meet a need, I do not see why heroin clinics cannot meet a need. At a government level we try to reduce alcohol and tobacco consumption, and we ought to try to reduce hard-drug consumption. The least we can do is meet the health needs of the people who are using those drugs.

**Reverend the Hon. Fred Nile:** In every town and suburb?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** It is not a question of every town and suburb; it is a question of having sufficient facilities to meet the need. It is a question of finding out what the need is and meeting it to minimise the harm caused by these drugs. That is the greater morality, rather than simply making horrific statements about the immorality of using drugs. It is a question of human welfare rather than the property of a drug having an intrinsic moral value, which is nothing more or less than an absurd proposition. I support the legislation because if it were to fail the Government would not say, "Yes, quite right. We do not need to have the trial. We will go ahead and open more clinics." I do not think the Government would do that. It would be frightened and go away. In the sense that I have to praise the Government for going at a glacial pace, I will support this bill. However, I believe that it is a wimpy approach and there should be something far more bold than this. The Opposition should have a hard look at itself and take a less prohibitionist approach to drugs and support the provision of injecting rooms in proportion to the medical need.

The last thing I want to do is to encourage drug use. Prior to entering Parliament I had spent 20 years trying to discourage the use of alcohol and tobacco. The idea that I can be criticised for not taking a strong attitude against drug users is completely fatuous and offensive. I do not think I should get myself in a lather about it because my record stands. The difference between illegal drugs and legal drugs has to be lessened. The effects that drugs have on health have to be looked at in a less prohibition-oriented framework, a less moralistic framework, and in a far more harm minimisation framework that takes into account the sociological and economic effects of drugs with respect to their availability, why they are marketed and why they are used. That is the way we have to go. This bill is progress at a glacial pace. If that is the best we can do, I will support it. However, I urge the Government and the Opposition to do a lot better than this.

**The Hon. PATRICIA FORSYTHE** [6.05 p.m.]: I have been in this place long enough to understand that when we take a conscience vote it is often misrepresented in the community. I wish to put my position on the record. I have a particularly sensitive portfolio responsibility and I do not want my position to be misinterpreted in any sense. When I last spoke to this legislation I said—and it is appropriate now—that I spoke both as a member of Parliament and a mother. I am grateful that as I watched my children grow and develop I did not have to face the pressures, concerns and heart rending situations that many families face as they watch their children decline and go through extraordinary difficulties as a result of taking illegal drugs or, in some cases, legal drugs. I am forever grateful that my children were able to see right from wrong, that they were able to see a way of life that did not involve drugs. However, that is not the lot of many families in the community.

I want to make it absolutely clear that I oppose any freeing up of the drug regime and making drugs such as marijuana more available or decriminalised. I support sniffer dogs and other such measures. If people

break the law the weight of the law should be placed upon them. I believe in a strong legal regime in relation to drugs, but we should not lose our civility and humanity. We should do anything we can to preserve the lives of drug-addicted people. I do not know whether this drug trial will save lives in the long term. It seems to me that the Government is making the case that the trial has not yet had sufficient time for conclusions to be drawn. We must put this into context. There has been less heroin on our streets, so perhaps it has not been a typical time from which we can draw adequate conclusions.

It is only because I believe that it is appropriate that we give the trial a chance for proper conclusions to be reached that I believe we should allow this bill to pass. As I said last time, if the centre saves even a few lives it is worth it. However, people may get the impression that we are being lighter in our response to the weight of the law and that we are liberalising drugs. I would not want that interpretation to be placed on my vote. We need to be humane and to have a civil approach. I am prepared to give my support to the trial of injecting rooms.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [6.07 p.m.]: When this bill was first introduced I disagreed with it. I was not afforded a conscience vote at that time. I now have a conscience vote—the National Party has decided that all its members should have a conscience vote—but I have not changed my mind. It is my understanding that no other member of the National Party has changed his or her mind. As individuals and as members of the National Party we disagree with this legislation. We believe, sadly, that this inquiry will become a self-fulfilling prophecy. There is a temptation to support this legislation because it will delay the implementation of these centres. The Government is setting it up so that centres will be implemented. The Drug Summit was loaded so that the result could go only one way.

The dishonesty with this process is that while the Coalition has a conscience vote on this issue the Australian Labor Party does not. The Premier and the Special Minister of State have staked their claims and they are locked in. The only good thing about this bill being passed is that it will delay the implementation of something that I believe will not help. If I believed it to be a positive measure, I would not have a problem supporting it. Radio commentator Mike Carlton this afternoon indicated that I was a man of great conscience. I appreciate his saying that. My conscience in this case dictates that I do not support this bill. I congratulate John Brogden on his stance. Obviously, I disagree with his stance.

**The Hon. Charlie Lynn:** Which you can do in our parties.

**The Hon. DUNCAN GAY:** The difference is that Labor members have been threatened and bullied, while Coalition members are free to make up their minds on these important issues. Labor may have set this up to try to ridicule John Brogden. The reverse has happened and Labor has been hoist on its own petard. Events have shown that John Brogden has a strength and ability that the Minister did not bargain on.

**The Hon. Dr Peter Wong:** Do you support his view?

**The Hon. DUNCAN GAY:** No, I don't support his view. But I support him and respect him.

**The Hon. Dr Peter Wong:** Mr Brogden is right.

**The Hon. DUNCAN GAY:** It appears that the Hon. Dr Peter Wong's view is different from mine.

**The Hon. Dr Peter Wong:** I support Mr John Brogden on this issue.

**The Hon. DUNCAN GAY:** I have a different view, but that does not mean I do not respect your view on this issue. I will not delay the House further. I will vote against the bill in exercising a carefully considered conscience vote.

**Reverend the Hon. FRED NILE** [6.11 p.m.]: On behalf of the Christian Democratic Party, I oppose the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill, as honourable members probably would anticipate. The bill will extend the trial period of what the Government calls the medically supervised injecting centre to become a 30-month trial rather than an 18-month trial. The reason given by the Government for the 12-month extension is that it is required to allow the centre to remain operating until the final evaluation report of the independent evaluation committee is delivered in April 2003 and considered by the Parliament and the community.

I know that other honourable members who have spoken in this debate and the Minister have great sensitivity about the use of the term "shooting gallery". The Leader of the National Party in the other place

always refers to this as a shooting gallery. The Government has called it a medically supervised injecting centre. There are illegal and legal shooting galleries. This is, simply put, a legal shooting gallery. Discussion about the facility and so on is another matter. Switzerland suffered the same embarrassment, could not call it an injecting room and settled on the term "consumer room". Zurich has six consumer rooms for addicts. From discussions I had with officials there, and from perusing policy documents, the whole purpose was to get addicts off the streets in that country—to clean up Zurich and Switzerland for the tourists.

It could be said that the attitude was, "To hell with the addicts! Just get them off the streets and into consumer rooms, and supply them with needles and heroin." They get both. Members who will vote for this bill probably will, on another occasion, argue that we should provide drug users with heroin. The Hon. Ian Cohen asserted that this is a human rights issue. Using his logic, we should be supplying their heroin. If this is a human rights issue, what of all the other people who are addicted to other substances? Should we supply them with substances to meet their needs as well? The Hon. Dr Arthur Chesterfield-Evans took a strong stand against tobacco products but adopted a soft attitude on marijuana and other drugs.

**The Hon. John Della Bosca:** You're consistent, Reverend Nile.

**Reverend the Hon. FRED NILE:** I try to be. I am opposed to drugs, legal and illegal. The Hon. Dr Arthur Chesterfield-Evans was embarrassed by the different stance he took in trying to justify his position on this bill. This cannot be called a human rights issue. That was a ridiculous expression for the Hon. Ian Cohen to use. I am disappointed in the bill because the Government put strong arguments to the Parliament in supporting an 18-month trial. We had all the information and plans for it. Now the Government seeks to extend the trial from 18 months to 30 months. The question is: What happens at the end of 30 months? Will we have another bill from Labor seeking to extend the trial period, if it is in government? We are not sure what Mr Brogden will do if he is elected Premier.

**The Hon. Charlie Lynn:** He will support the will of the party and exercise his position.

**Reverend the Hon. FRED NILE:** I do not want to disappoint any Opposition members, but it has been my observation over the 21 years I have been in this Parliament that Premiers—whether Labor or Liberal—usually get their way. So one cannot ignore the personal views and convictions of the leader of the party. I do not want to relate instances of that today because some are semi-confidential, but I know that many controversial issues were driven by the Premier at the time over the opposition of members of his party. That is because a Premier's position on various issues is strongly held and the Premier can drive those issues through the party.

**The Hon. Charlie Lynn:** That does not happen with the Coalition.

**Reverend the Hon. FRED NILE:** I hope it will not happen if the Coalition wins government. But that raises a question mark in the mind of the community.

**The Hon. Duncan Gay:** We will expect your help on that.

**Reverend the Hon. FRED NILE:** I will support what is right, regardless of who is in government. I am worried that the guarantee that accompanied the previous bill will be overridden in the future. This is spoken of as a trial, but it is gradually becoming institutionalised by operating for a bit longer and a bit longer, until it will be argued the centre should not close. The Hon. Dr Arthur Chesterfield-Evans proposed injecting rooms wherever there is a need for them. Because there are addicts in every town and suburb, his logic is that we should have hundreds of these injecting rooms all over the State. The point is often raised that New South Wales should have heroin trials. I believe that if we ever had a heroin trial it would never stop. Emotional blackmail would be used to keep the trial going to meet the needs of the addicts. I do not want to be compelled to use the language that the Government proposes—a medically supervised injecting centre. It is a shooting gallery. This certainly is not a human rights issue.

Even though a conscience vote was allowed in the other place, only four Liberal Party members voted with the Government in favour of extending the trial. Honourable members may be getting the impression from this debate that the Liberal Party is split down the centre on this issue, or that the majority support Mr Brogden's position. In fact, only Mr John Brogden, Mr Peter Collins, Mr Brad Hazzard and Mrs Judy Hopwood voted in favour of the bill. That is, four of the 21 Liberal Party members and 13 National Party members voted for the extension of the trial. I agree with what was said by the Deputy Leader of the Opposition. In this place, a



conscience vote allowed on one side usually leads to a conscience vote being exercised on the other side. If the Government is confident about the truth or righteousness on its policies, it should put the issue to the test and give its members a conscience vote.

**The Hon. Ian Macdonald:** Why?

**Reverend the Hon. FRED NILE:** Where Opposition members have a conscience vote, normally both sides are afforded a conscience vote. I know some Labor members who are opposed to the shooting gallery and this bill will be forced to vote for it. If just a few Coalition members vote with the Government the bill will be passed.

**The Hon. Ian Macdonald:** We would get a 100 per cent vote from our members.

**Reverend the Hon. FRED NILE:** Like some South African dictatorships. I congratulate the Leader of the National Party, who, in common with the Deputy Leader of the Opposition in this House, has consistently maintained his position. During the second reading debate on this bill in the lower House, the Leader of the National Party stated:

The Labor Party should match the Coalition's position and afford its members a conscience vote. Not all members of the Labor Party have a rigid, uniform review according exactly with that of the Premier. I know that many Labor members, in good conscience and genuine belief, are vehemently opposed to the existence of the shooting gallery and therefore equally are opposed to any extension of this so-called trial or the permanent establishment of the shooting gallery. The National Party is opposed to any relaxation of the laws regarding illicit drugs in this State. The National Party is opposed to the legalisation of shooting galleries, the decriminalisation of self-injection of heroin and the decriminalisation of the geographic area surrounding an established shooting gallery."

"The National Party is opposed to any relaxation of the laws regarding illicit drugs in this State. The National Party is opposed to the legalisation of shooting galleries, the decriminalisation of self-injection of heroin and the decriminalisation of the geographic area surrounding an established shooting gallery. Labor's heroin injecting room is another example of how far out of touch with the community the Carr Government is. I know, from observing opinion polling generally on this topic, that a very substantial majority of the community are opposed to decriminalisation and liberalisation of this awful scourge of using heroin.

I commend the Leader of the National Party, Mr Souris, for the strong position he has taken on this issue. During the second reading debate in the lower House the honourable member for Willoughby, the Hon. Peter Collins, strongly supported innovative approaches to resolving the drug problem, such as the establishment of the shooting gallery. During his speech he made an interesting admission. I thank the Special Minister of State for providing me with a copy of the report on the injecting room. Even though the report claims that there has been no increase in loitering or expansion of drug-related crime, the honourable member for Willoughby stated:

That may be a little too optimistic, because anyone who walks through Kings Cross with their eyes open can see a range of activity that should attract the attention of the New South Wales Police Service and should result in action being taken for the many small drug deals that appear to be done on the street in broad daylight every single day of the year. Anyone who lives in the Kings Cross area, or has cause to frequent the area, can find heaps of evidence of low-level drug deals being done on the streets of Kings Cross in broad daylight. The Government should take little heart from the fact that such activity continues.

It is interesting that the honourable member for Willoughby, who is in favour of the injecting room, is suggesting that the evidence he has seen with his own eyes conflicts with the evaluation report entitled "Twelve-month Process Evaluation Report on the Medically Supervised Injecting Centre", which is dated 22 May 2002. One wonders, in the light of this report, why the Government could not make a decision one way or the other and why there is a need for an extension of the trial.

There is an element of controversy in this debate and I wish to make my position absolutely clear. It has been suggested by other honourable members who have participated in this debate that those who care about saving the lives of heroin addicts will vote for the injecting room, and that those who do not will vote against it. I am opposed to the injecting room or the shooting gallery precisely because I want to save lives and I want to do all I can to discourage anyone from being a drug addict or from commencing a drug habit. I believe that the injecting room sends the wrong messages to young people in our society. The centre's location would be a good site for a rehabilitation centre, but a centre directly opposite Kings Cross railway station is the wrong location for a so-called injecting room.

The site should be the location of a rehabilitation and rapid detoxification centre because detoxification has proved to be very effective. If I were the Premier instead of Mr Carr or, potentially, Mr Brogden, I would introduce compulsory drug rehabilitation centres in this State and I would require all drug addicts to undergo rehabilitation. That policy is operating successfully in Sweden and in Singapore and those countries do not have

the type of drug problems that exist in New South Wales. If people query the appropriateness of that policy, I suggest that there should be a trial of those constructive and positive policies, which would save lives and give young addicts something to live for—a future.

A couple of features of the report troubled me, namely, that 2,729 individuals were assessed and registered to use the services of the medically supervised injecting centre. Those 2,729 addicts made 31,679 visits. So a relatively small number of people have used the centre a number of times. The belief has been expressed by some members of the Kings Cross Chamber of Commerce and other people that the injecting room should be called the drug testing centre because usually the people who buy heroin are concerned about its quality. They are not sure whether any other white powdery substance, which could be harmful, has been mixed with the heroin. They are not sure whether they may have stumbled across a batch of heroin that is almost pure and that could kill them if injected in the usual quantities. The injecting room is used as a testing centre in the knowledge that if the batch of heroin they are using is almost pure the centre staff will save their lives. They are using the centre to test the quality of the drugs that they intend to use.

I know also that, contrary to many statements about the injecting centre, cocaine is increasingly being used there. It is a matter of concern whether the injecting centre is indirectly encouraging the use of cocaine, which is a very serious addictive drug. Even though heroin has been the drug most frequently used at the injecting centre—it was injected during 50 per cent of the visits—cocaine was injected on 42 per cent of the visits, and that should be a matter of concern. We would not want a wider use of cocaine in our State. The report states also that more than half the occasions of service provision related to injecting and vein care advice—that is, 55 per cent of visits. The nice term "vein care advice" in fact refers to something quite ugly: Many addicts are running out of veins in which to inject drugs, and they are obtaining the assistance of the centre's staff to find a vein.

This practice is more common among the older addicts, those in their thirties. If they have been using drugs for the greater part of their lives, they are often unable to find a vein and they consequently resort to desperate measures to inject drugs. I do not suggest that this happens at Kings Cross, but a recent report claimed that drug addicts inject drugs behind their eyeball sockets in an effort to find a vein. One can only imagine the physical stress and potential harm caused to a person's health by such a practice. The report states that 250 drug overdose incidents occurred at the centre requiring clinical management. Of those, 184 were heroin overdoses, 50 cases of cocaine-related toxicity, eight benzodiazepine overdoses and eight non-heroin opiod overdoses. Given that they have been overdose incidents, the question that is exercising my mind is whether the centre, by its very existence, encourages more extensive drug use.

If the centre had not been established, I do not believe it follows that 250 people would have died in the streets of Kings Cross. It cannot logically be argued that because 250 overdose incidents occurred, that that number of people would have died in Kings Cross if the centre did not exist. I do not believe that there is a logical connection. There is an unknown element in the equation, and all we know is that the centre encourages people to use its facilities, to inject in the centre, and consequently people overdose. That is all that can be demonstrated. It is emotive to argue that the centre has saved 250 lives and that no-one should therefore question the value of the centre. I believe the converse proposition is equally valid: if there were no centre, would those people have overdosed? I do not believe that the statistics provide total evidence of the centre's success.

It is interesting to note that the loitering issue is referred to in this report. It seems that drug users are not loitering at the front of the injecting room; the report acknowledges that there has been an increase in the number of people loitering at the rear of the centre. A number of loiterers were at the back of the injecting centre on every occasion that the centre was observed. Drug addicts who inject drugs and who wish to be discreet go out the back door and hang around that part of the centre.

It has been said that the medically supervised injecting room is costing the Government many millions of dollars. I am not sure of the precise figure, but an amount of \$5.6 million has been referred to. The Government says that that money is derived from the confiscation of stolen goods, but it is still money that could be used to provide beds for drug addicts in rehabilitation centres. I am still receiving complaints from people who say, "I cannot get my son or daughter into a rehabilitation centre." Let us use that money to get young people off drugs altogether. The report also states:

Recorded crime data for Kings Cross Local Area Command and for the rest of Sydney both indicate an increase in income generating crime ...

Obviously, addicts need drugs and they need money to buy their drugs. The report refers to an increase in income-generated crime, which reflects the fact that drug addicts are robbing people—stealing their purses, wallets and so on. The report uses sanitised language; we are given new words to use. The evaluation report should reflect any increase in drug use and in the number of drug addicts in Kings Cross, Sydney and New South Wales that can be attributed to the medically supervised injecting room. The report highlights another tragedy: the majority of people who use the medically supervised injecting room are males, but many females use the facility also. The report states:

Female clients were significantly more likely than males to have engaged in sex work in the month prior to registration.

The report also shows in a table entitled "Demographic characteristics" that of all the females using the centre in a one-month period, 35 per cent were sex workers. That means that some of the drug addicts using the centre to inject drugs are prostitutes. They go onto the streets, sell their bodies to get money to buy drugs, and then go into the injecting room to inject those drugs. How can we as members of Parliament be happy with such a scenario? Those young women have no prospects for the future. The report details the way in which drug addicts obtain their income. It states that 24 per cent of female addicts get their income from "other sources", which is defined as sex work, student grants, drug dealing and income-generated crime.

The report claims that 24 per cent of females and 8 per cent of males—that is 12 per cent of all drug users—admit up front that they get their money from prostitution, drug dealing and other crime, and that is a tragedy. The medically supervised injecting room encourages that sort of behaviour. That concludes my observations of the initial report. I do not believe that the centre should be closed down. I believe it should be replaced by a drug rehabilitation centre that is provided with the same resources as those allocated to the medically supervised injecting room.

**Debate adjourned on motion by the Hon. Peter Primrose.**

*[The Deputy-President (The Hon. Tony Kelly) left the chair at 6.34 p.m. The House resumed at 8.15 p.m.]*

#### **GOVERNOR'S SPEECH: ADDRESS-IN-REPLY**

##### **Sixth Day's Debate**

**Debate resumed from 8 May.**

**The Hon. CHARLIE LYNN** [8.15 p.m.]: I am somewhat ill prepared for this debate because I thought the House would continue to debate legislation. My contribution will focus on a serious issue that must be addressed by the Government: the transport system in western and south-western Sydney. In a recent adjournment speech I spoke about the difficulties now being experienced by people who live in the Campbelltown and Macarthur areas when travelling to work. With the opening of the M5 East tunnel most of our transport problems should have been alleviated. Outside peak hours, it is a fantastic drive. I am sure that the journey from the Macarthur and Liverpool areas to the city outside peak hours is probably what the planners envisaged for peak hours. However, already the M5 East tunnel, in particular, has reached its capacity. Last Tuesday, as I was travelling to the Parliament during the morning peak period, traffic in the tunnel halted. This has serious consequences for the quality of life of those who have to negotiate the tollway every day when travelling to and from work; they are hostages to the system.

Two major issues need to be seriously addressed. They are the variable speed limits through the tunnel and the proliferation of speed cameras in the tunnel. The variable speed limits require drivers to change from speeds of between 70 and 90 kilometres an hour. People do not drive through the tunnel focused on the next sign to see what the speed limit is. As they drive through the tunnel, their focus is usually on the vehicle in front of them and the vehicle behind them. However, because of the proliferation of speed cameras drivers tend to the err on the side of caution.

I do not know the statistics, but my experience is that the peak hour flow through the tunnel is anything from 10 kilometres per hour to 40 kilometres per hour—at least half the 80 kilometres per hour speed limit. People coming to the city travel at 110 kilometres per hour until they reach King Georges Road. They then slow down to 90 kilometres per hour, then 80 kilometres per hour and slower. There is a huge slowdown. More people are going into the tunnel than are coming out the other end. There needs to be a realistic assessment of the speed of cars going out of the tunnel. Except for a couple of intersections, the speed limit could be lifted a little to increase the flow through the tunnel. I am concerned about commuters sitting in the tunnel in the smog and haze. The amount of fumes going into cars cannot be a good thing. It may be all right for people in airconditioned cars but for someone on a motor bike it is very uncomfortable, and it cannot be healthy.

**The Hon. John Ryan:** Sitting on a motorbike cannot be healthy.

**The Hon. CHARLIE LYNN:** That is right, but I am fortunate that I have a choice. Many people do not have a choice. They use motorcycles to commute to and from work because of the cost of fuel. There is not enough room for them in the tunnel. Normally they use the breakdown lane and make their way through, but if they are stuck in the tunnel they are breathing those fumes. That problem needs to be addressed. The M5 authorities need to look at getting vehicles through the toll gates more quickly. Drivers find it is quicker to leave the E-tag lane and go into the other lane and swipe the card. One or two more E-tag lanes are needed to help the flow. In peak hour cars crawl along at 10 or 15 kilometres per hour for up to half an hour. Drivers queue for the privilege of paying a toll that is paid back anyway.

There is a desperate need for a third lane on the M5 between Campbelltown and Liverpool. This will take co-operation between the State and Federal governments. We should not be blaming each other but working together for a solution. I ask the State Government to work with the Federal Government, because the Western Sydney Orbital is designed to start at Liverpool, at the Camden Valley Way overpass. Given the population growth and the amount of traffic in the Macarthur area, I suggest that the Western Sydney Orbital should begin at Campbelltown and include a third lane. People travelling in from Macarthur face that daily challenge and frustration. A lot of them should use public transport, but peak hour public transport on the Macarthur line is at capacity, and there is no transport link to the fast-growing Narellan and Camden area. That trip can be a rather long bus journey. Transport, both public and private, is a major issue for the increasing number of people who live in the Macarthur area for a better quality of life.

The link roads from the south-west to the west need to be upgraded, particularly The Northern Road, which is not much more than a goat track, is at capacity and dangerous. There are no passing areas for people commuting between Macarthur and Liverpool, and between Penrith and Parramatta. With the changeover in the University of Western Sydney from a federated structure to a unitary structure, many students have to take subjects at Nepean and Parramatta and have to commute. It is a very inefficient way to travel across the grain. Travelling by public transport involves two or three connections and is very slow. Much of it goes through the Cabramatta area and many students do not feel safe on those trains. They have to drive cars, but that is expensive because of the cost of fuel, and it is quite dangerous, particularly in the winter months when a lot of the driving is done in the dark. I ask the Government to look at the transport problems out there because more and more people are coming out there. We have to make sure that we balance the population increases with infrastructure development as it happens, not well after it has happened.

An area where planning has totally failed is the link road between Campbelltown and Camden. Initially, that link road was a four-lane link road with a 100-kilometre per hour speed limit, and it provided fast and efficient access between these two growth areas in south-western Sydney. Landcom opened up a lot of land in the area but took the cheapest option. Instead of investing in infrastructure development of overpasses and underpasses to maintain the integrity of the high-speed link, it took the cheapest option and constructed a couple of roundabouts. Now there is a peak-hour parking lot between the two cities, which is very frustrating. Landcom is throwing in an extra set of traffic lights to boot, and the speed limit on the road has gone from 100 kilometres per hour down to 60 kilometres per hour. That reflects planning for yesterday rather than planning for tomorrow, and it is a major problem that needs to be addressed.

**The Hon. Dr Brian Pezzutti:** That is because the big bold Labor Government keeps looking backwards.

**The Hon. CHARLIE LYNN:** As I said, it is planning for yesterday rather than planning for tomorrow. The link road is an example that we can look at any day of the week to see the daily frustrations faced by people in the area. Transport is the major issue affecting the quality of life of people in the Macarthur area. A lot of development is taking place in the area. The estates are of a good quality. People no longer move to Macarthur because they cannot afford to live anywhere else. People move to Macarthur in south-western Sydney because they want to go there.

**The Hon. Dr Brian Pezzutti:** The Government gets a lot of stamp duty from out there, doesn't it?

**The Hon. CHARLIE LYNN:** My word the Government gets a lot of stamp duty from the Macarthur area. The developments are quality developments, and the area has good schools and good health services. It is a great place to live. But, regrettably, many people who live there must commute to Sydney or to other areas where they work. To do that they must rely on either public transport, which does not suit the needs of the people of Macarthur in particular, or road transport, which is inefficient at the moment and getting worse.

I ask the Government to stop passing the buck about who is responsible for the orbital, the third lane, the traffic lights or the M5. This Government should tell the Federal Government, "We need to work together in a bipartisan way to ensure that the people who settle in south-western Sydney are able to commute quickly and efficiently between the two areas." I will continue to focus on transport issues in south-western Sydney. Indeed, I will say more about it during my contribution to debate on the budget when I have seen how much money the Treasurer, whom I welcome back to the Chamber tonight, has allocated to those areas.

**The Hon. Dr BRIAN PEZZUTTI** [8.32 p.m.]: I begin my speech to the Address-in-Reply debate by congratulating the honourable Governor, Marie Bashir, on the way she is performing her duties and the way both she and her husband are performing their duties in public as well as in the private sphere. The way she lives her life is great testimony to the way we aspire to enjoy our life, our work success and multiculturalism in this State, and the way she takes that personal message and her personal approach to her duty. A couple of other things have happened and are happening this year which are worthy of note.

First, it is the Queen's fiftieth anniversary of her ascension to the throne. We should all be grateful for that. The Queen has provided stability in the Commonwealth, not only in Australia but in uniting people of like mind behind the aspiration of parliamentary democracy and freedom. The Queen, who has been an anchor during turbulent times, both for her personally and for the world, has been an example to us all. The celebrations in England and in other parts of the world during this period are our way of thanking her for that work. We have also seen some fairly sad occurrences.

We saw the death of the Queen Mum at the age of 101. I will not read out all her titles, but she was the Queen Mum to many people throughout the world. Her stoicism and, at the same time, her enjoyment of life showed that she was a creature of her time. More importantly, during the Second World War she gave many examples of the British stiff upper lip and endurance that people wanted to see, and did see, from her as the Queen. Her life should be celebrated. Every day she celebrated the fact that she was still alive, and with her responsibilities came an enjoyment of life.

We also saw the passing of a number of great icons in Australian public life. The recent death of Sir John Gorton has been noted in this Chamber and elsewhere. He is perhaps best described as a larrikin Australian, who served this country in war and peace, and in private and public spheres. Again, we should be thankful for that example. Another great person we have all known, and everybody in New South Wales would have loved, was Sir Roden Cutler, who passed away recently. He was one of the great people of New South Wales. He led New South Wales through a period of storm and tempest, during times of great change, from a traditional society through to the changes of the 1980s. He was the longest-serving Governor of New South Wales, and he was held in the highest regard by the people of New South Wales.

Sir Roden Cutler raised a family in Government House. The family was never in the public eye; they were always private people. Sir Roden and his wife carried out their public duties in New South Wales with enormous aplomb and acclaim. The Government deserves credit for the appropriate celebration of Sir Roden's life and the excellent farewell it gave him. Another person we should celebrate in due course, from a parliamentary point of view, is Jim Cameron. James Alexander Cameron was known to me and anyone who attended conferences of the New South Wales branch of the Liberal Party. He was the conscience of the Liberal Party when dealing with practical issues. He always ensured that we stuck closely to the tenets of liberalism, not necessarily in a religious way but in an ethical way. He certainly learnt his lesson about what God wanted and did not want when he had his bypass operation. He left the Liberal Party to join the Call to Australia Party and then returned to the Liberal Party.

I dare say Jim Cameron will be in the bosom of the Lord with Sir Robert Gordon Menzies and others. He led a committed public life. Love him or not love him, he was driven to serve, and he served us well. Another person I want to congratulate and celebrate this year is a person who is second only to Bradman as a cricketer. Of course, I refer to Adam Gilchrist, a local boy from Lismore who has made good. His father was a great cricketer before him. Adam has been the epitome of sportsmanship and doing the right thing, playing the game hard and playing it well for Australia. These days his talents as a batsman, a wicket keeper and a true Australian are being recognised. Adam, who is about 30 years old, has lived in the hard glare of publicity and has done well, both privately and publicly, and for that we should be grateful.

This year we celebrate the bombing of Darwin when war came to our shores. This year has been a great time for remembering that period—a time when many Australians were not necessarily aware of what was happening. They saw the bombing of Sydney Harbour and were aware of bombings offshore, but when the

Japanese launched a big attack on Darwin much more happened than many people would otherwise have realised. I congratulate the RSL, the Federal Government and the State Government on their efforts in sending a message to the community about those desperate times. We celebrate the efforts of the home guard, which was the only thing protecting Australia at the time, and remember those people, both civilian and military, who lost their lives during that awful attack.

They are a few things that we have celebrated this year. The bushfires that have now receded into memory are the subject of an inquiry. The only thing that I would celebrate more is the heavy work not just of our firemen but of the people from community services, police and emergency services who did a sterling job in aiding their community at the time of the fires. People from other States came to our aid during the difficult fires. Today the Minister said that it was the longest period of fire that this State has had for many years. It is fantastic that it was without loss of life and with only a few injuries. Firefighting was a very professional operation. The inquiry continues so I will not speak any more about it. I am very grateful for the efforts of those who fought the bushfires around Grafton and Iluka and did a sterling job, although the concentration of the media was on the efforts down here.

Certainly, the fire was right throughout the State and the response to that fire was the same each time, with great valor and commitment to saving life and property by fire brigades. A large numbers of speeches have been made on this issue in Parliament and people would say that they deserve no less than that sort of recognition. I turn particularly now to the Governor's Speech. In this regard Kerry Chikarovski hit it off right when she said that this was a speech that was required to be delivered by the Governor for the Labor Government. It was a very boring speech and had nothing to offer the people of New South Wales for this year.

**The Hon. Michael Egan:** But you would probably describe my Budget Speech as being boring!

**The Hon. Dr BRIAN PEZZUTTI:** Minister, I have not got to your Budget Speech, that is a topic for another day. I would be perfectly out of order if I were to comment on it right now. The Governor's Speech was without doubt the least exciting speech. It gave me a great yawn. In fact, I had a little doze which was not observed by the camera, and I think I shared that with a couple of the judges sitting to the right of me. The speech was very boring and, when I read it later, it was even more boring. There was no spark of "Let's advance. Let's move forward with things that still need to be done". I would have liked a pioneering spirit because this is not just a time for being complacent, there are still challenges to give our State a better future. The speech is just froth and bubble, and I am very disappointed with it. Kerry Chikarovski hit it on the head when she said, "Labor confirms that they have no record, no plans and no vision." That was also the general view of media commentators which means that our party picked the mood of the community. On the other hand, Bob Carr has not picked the mood of the community. Yesterday in the lower House the Premier talked about the people of Dubbo and said, "They use rough language in Dubbo; it must be because of their proximity to the zoo." It is insensitive for the Premier of this State to talk about people in country New South Wales in those terms.

**The Hon. John Hatzistergos:** He only talked about one person.

**The Hon. Dr BRIAN PEZZUTTI:** No, not just one person but all of them. He said, "They use rough language in Dubbo; it must be because of their proximity to the zoo."

**The Hon. John Hatzistergos:** He was talking about Ben Shields.

**The Hon. Dr BRIAN PEZZUTTI:** He did not correct it. In fact, his insensitive comments yesterday about some of our colleagues from the National Party in the lower House were just short of appalling. I agree with my colleague in the lower House, Peter Debnam, when he talked about a need for an audit to get ready for the twenty-first century. The last audit was when Nick Greiner became Premier and he had a good hard look at a State which was in a great deal of difficulty at the time with the recession looming after the bicentenary. He had the courage to go through and see what the problems were and take steps to correct them. John Fahey did what he could, in spite of having both hands tied behind his back by some very strange Independents and at the time an irresponsible Opposition in the lower House, to try to continue to progress. Since then we have pretty well rested on our laurels and done damn-all.

Kerry Chikarovski was absolutely right when she described the Governor's Speech as having no record, no plans and no vision. The highlight of the speech was the promise to build the cross-city tunnel, about which the people in country New South Wales could not give a tupenny bit, yet it has been announced for the past five years. Bruce Baird had plans for it in 1993. This has been greeted with a whole lot of yawns around the State but

it shows a lack of concentration on the real issues. This Government has been very Sydney-centric and as a country member I am astonished that country New South Wales continues to be ignored. The Treasurer had the hide in this Budget Papers when talking about rural and regional New South Wales to include the Illawarra and the Hunter. How dare he include the metropolises of the Illawarra and the Hunter as part of country New South Wales. It is appalling.

In her Speech the Governor also referred to the Drug Summit. The decisions by the Carr Government on the Drug Summit continue to roll out again with little concentration on education and treatment options and more concentration on police methods and trials of the Drug Court with which we will deal later tonight. If we were in a State the same size in Sweden or Switzerland we would have 1,700 long-term treatment beds in this State, but we do not. If we have got 300 I would be very surprised. I am talking about treatment that lasts for one year as you would see at the Buttery. Much of the Drug Summit money is coming from the Commonwealth anyway. We do not have \$500 million being spent on education, as they spend in Switzerland and Sweden. We do not have \$1.1 billion spent on policing, as they do in both Switzerland and Sweden. We do not have \$600 million spent on treatment available for people with drug problems as they do in Switzerland and Sweden. They are assertive, active interventions which work—interventions which we do not have in this State. I am talking about \$A1.7 billion being spent in Switzerland which does not have as robust an economy or as robust and supportive a community as New South Wales. Those countries are much more inward looking. I am astonished that New South Wales does not lead Switzerland and Sweden in looking after our people.

I am surprised that the honourable member for Kiama described the Governor's Speech as imaginative and visionary. He must have been on something that day because that was certainly not the view of anybody else. In fact, I do not think any member in this Chamber has described it in that way either. The Governor described the creative package of the Minister for Transport that is just about introducing some driver knowledge and hazard perception test. I would have thought that that would have been just part of the course rather than something to be announced as new. We were promised in the Governor's Speech that there would be more police on the street, but I do not see them. I see some demonstrations with a flurry of activity from time to time but I certainly do not see more police on the streets of Lismore or Nimbin. I am pleased that the new Commissioner of Police, Commissioner Moroney, is a Lismore boy. I hope that the country boy has not been taken out of him. I hope he has a commitment to fairness in policing and protection, and the work that police can do effectively with the community to improve our way of life. Without working with the community they will not be successful.

I am again drawn to the trends in sentencing in criminal courts— a matter which is dealt with in the Governor's Speech. It is not right that 20 per cent of the people who have committed sexual offences against children go to prison for an average of nine months. Those simple statistics, put out in the "Crime and Justice Bulletin" of the New South Wales Bureau of Crime Statistics and Research, are really worth looking at. Trends in sentencing and offences that attract gaol sentences are just awful. For sexual offences against children, the average period of imprisonment in 1993 was 7.5 years and it has remained at about that. That is not an appropriate response by the courts when dealing with an issue that has long-term adverse effects, not only for the personal circumstances of victims but for real dollar costs to the people of New South Wales in the area of mental illness.

I am drawn to the speech of the honourable member for Wakehurst, Mr Brad Hazzard, who even in 1993 was pointing out the failure of DOCS to get interventions for abused children right. On each of the three occasions on which DOCS representatives have appeared before the parliamentary committee which I chair I have asked for benchmarks against which DOCS can be judged. We have benchmarks for times that people wait in emergency departments depending on how seriously ill they are. I would have thought the least that DOCS could do to demonstrate its accountability is to develop benchmarks on responses by DOCS officers to type 1, type 2 and type 3 reports of child abuse and child neglect. Each time the director-general has said the benchmarks are on the way; each time they have not been produced.

Even the recent inquiry into DOCS set up by this House found that the department still does not have those benchmarks. How do the people of New South Wales know whether DOCS is performing or not performing? How do we know whether the Government should allocate more resources to DOCS? Or do we need a complete attitudinal change, a new Minister and a new director-general? That might sound a bit harsh, but I mean exactly what I say. I am astonished by the Government's lack of planning for the future. Australia has a new tax system. On 23 October last year Premier Bob Carr, in answering a question about the GST by the former member for Hornsby, Stephen O'Doherty, said:

I'm not altogether sure what the question is, but not only do we not support an increase in the GST, we do not support the wretched tax in the first place.

How close to a lie is that? It is not just a lie; it has gone beyond a lie. Bob Carr was the very first Premier to rush to Canberra to sign up for the GST. I think Michael Egan was the first Treasurer to rush to Canberra to sign up. But we have not planned what New South Wales will do when this State has to stand alone—when the Commonwealth guarantee of continuing income ends and a number of the taxes on which the New South Wales Treasurer currently relies must go pursuant to the agreement.

**The Hon. Michael Egan:** They have gone.

**The Hon. Dr BRIAN PEZZUTTI:** Not all of them, have they?

**The Hon. Michael Egan:** The financial institutions duty.

**The Hon. Dr BRIAN PEZZUTTI:** And the bank accounts debit tax.

**The Hon. Michael Egan:** That was a tax that we lifted, quite apart from any GST revenue.

**The Hon. Dr BRIAN PEZZUTTI:** Good. I congratulate the Treasurer on that. It must be the only tax he has got rid of.

**The Hon. Michael Egan:** Don't be silly!

**The Hon. Dr BRIAN PEZZUTTI:** Give me another one.

**The Hon. Michael Egan:** Stamp duty on refinancing mortgages.

**The Hon. Dr BRIAN PEZZUTTI:** That is true. The Treasurer is thinking hard. And payroll tax on apprentices' wages, as he promised to legislate for this year.

**The Hon. Michael Egan:** And many other tax breaks totalling \$1,400 million.

**The Hon. Dr BRIAN PEZZUTTI:** A brand-new tax has been brought in, hasn't it?

**The Hon. Michael Egan:** Which?

**The Hon. Dr BRIAN PEZZUTTI:** The brand new tax this year of Treasurer Michael Egan called the development tax.

**The Hon. Michael Egan:** There is no such tax.

**The Hon. Dr BRIAN PEZZUTTI:** Yes, there is. It is called Planning First. It brings in a brand-new tax of, I think, 0.006 per cent of the development value.

**The Hon. Michael Egan:** Have a look at the budget papers.

**The Hon. Dr BRIAN PEZZUTTI:** I have looked at the budget papers. It is a brand new tax called the development tax, introduced by the Treasurer. I draw attention to one other very important issue: the shortage of anaesthetists in country New South Wales. I will then deal with professional indemnity insurance.

**The Hon. Michael Egan:** Medical indemnity or professional indemnity?

**The Hon. Dr BRIAN PEZZUTTI:** Professional indemnity insurance.

**The Hon. Michael Egan:** I think professional indemnity insurance will become a bigger problem than public liability insurance.

**The Hon. Dr BRIAN PEZZUTTI:** I appreciate what the Treasurer said, and I will say a little bit about the impact of that. New South Wales has about 781 specialist anaesthetists. Of those, only 82 live and work in country New South Wales—that is, 10 per cent of that work force is in country New South Wales and 90 per cent is in Newcastle, Sydney and Wollongong. Why is that so? The Minister for Health has exacerbated the problem in recent times by refusing to take the steps required to keep those specialist anaesthetists in the



country. First, there was a renegotiation of sessional arrangements. The Australian Competition and Consumer Commission [ACC] required that those arrangements be dealt with individually by each of the area health services.

The government of the day did not see the need to go and see Commissioner Fels and impress upon him that a statewide service like that in New South Wales simply could have different contract rates for sessional time payments across the State. So the Government did not renegotiate the contract, which was then two years out of date. The Government could not see the need for change to attract anaesthetists into the New South Wales system, particularly in country New South Wales. The Government did not see the need to be proactive on the issue. It let the whole system moulder, and more and more of the practitioners went to the private sector or went to Sydney, Brisbane or elsewhere.

Belatedly the New South Wales Minister for Health was drawn to negotiate with doctors and anaesthetists in Wagga Wagga, where all but the most extreme emergency services were being closed down. The Minister decided, on the advice of people there, that he would attract practitioners to country New South Wales by increasing the sessional rate for country doctors by 10 per cent. It was not a matter of the money; it was to recognise the difference in practising in the city and the country. The Minister also promised to deal with the doctors in a more involved and direct way and so on. On his return to Sydney, because he was having trouble attracting anaesthetists to Camden and the Blue Mountains, the Minister applied the rate to the whole of New South Wales. That is, this Minister, who could not afford to pay a cent more, was giving not just a 10 per cent pay rise to 10 per cent of practitioners, but giving a 10 per cent pay rise to all of those practitioners in the public system. That removed the main advantage of the increase, which was to attract practitioners to the country.

Then we have the farrago of professional indemnity insurance. The Government had in its hand the weapon called the Motor Accidents Act, the hammer it used to cap fees and so on. And it hammered every nail that popped up. Up popped professional indemnity insurance and bang went the hammer of the Motor Accidents Act. The Minister then waited for almost six months to put the law into operation. When he did, UMP faced a fourfold increase in claims. Instead of getting 10 claims a month, it was getting 40 and 50 claims a month. Is it any wonder that when that impact was added to the bottom line—not over a number of years but in a six-month period—UMP was caught short? Is it any wonder that it had a credit crisis?

The Minister then did something quite extraordinary. Out of the blue, he announced that he would pick up professional indemnity insurance for public patients in public hospitals—as happens in every other State. People had been asking him to do that for some time. But his original contract was without consultation, and it was wrong. The Minister went to see the Australian Medical Association, which quite frankly did not understand what the problems were. So the Minister took the problem to the Rural Doctors Association—a small organisation of country doctors—to learn what the pitfalls were. I had to sign up, but before I did I rang the director-general to get his personal commitment on a number of matters in the contract before I was happy to sign. These were matters that had been raised with me or that I had found out about myself.

This problem goes back to the Treasury Managed Fund, which I come to now because the big issue this year and next year for the Treasurer will be the Treasury Managed Fund. Recently I went to the web site of the Treasury Managed Fund and asked a number of questions. Mr John Whelan, a very professional person in the Treasurer's office, assisted me to get whatever answers he could obtain. He told me something new—namely, that the Minister for Health and the Treasurer decided to pick up the cost of not today's professional indemnity insurance claims against public hospital doctors who are working in public hospitals but also claims related to the past. They tried to find out what that tail cost.

I acknowledge that the Government took action that had to be taken and that the liability will be spread over time. The New South Wales Government has a triple-A financial rating and can bear financial burdens by carrying them over time and making appropriate arrangements in future financial periods. It is a contingent liability which the State, over time, can address by increasing revenue and charges. Although the tail was picked up, no-one has any idea what it is. They are trying to work out with Deloitte and PricewaterhouseCoopers what the tail costs, because obviously it will come off the tail that United Medical Protection [UMP] has to pay. Because UMP went into receivership, to this day Treasury has no idea what the Treasury Managed Fund's liability is—whether it is \$100 million, \$200 million or \$300 million. Who knows? It matters to the provisional liquidators because those cases will not be the responsibility of the provisional liquidator but, rather, the responsibility of the State. I have to say that that tail is now being extended as a result of the Premier's announcements about the assumption of civil liability. I acknowledge that the legislation is before the Parliament and I will not refer to it at any length, except to say that the State's civil liability picks up a tail and also picks up a cost.

It must be said that last year the Treasury Managed Fund budgeted to lose \$303 million. I have not had an opportunity to examine this year's budget papers, but I know that it will be a simple line item and it will be difficult to find. In spite of that, this year the one matter that I will be concentrating on during examination of the estimates will be finding out more about the operation of the Treasury Managed Fund to make its procedures a little more transparent. I know that the Government has nothing to hide. The Government took a very prudent step in funding that operation and putting cash into it to set it up, but the operation of the Treasury Managed Fund has become much more important since the liability for doctors working in public hospitals came into it with a tail longer than most of the other claims would have, and also as a result of the new civil liability picked up as a result of the legislation that is currently before the Parliament. I am sure that the Treasurer will be observing the developments closely because he keeps his eye on things. However, I think the operation of the Treasury Managed Fund should be more transparent.

**The Hon. Michael Egan:** All they can do is rely on actuarial valuations.

**The Hon. Dr BRIAN PEZZUTTI:** I appreciate that, but I merely flag my great interest in this matter. I will deal with it in more detail during examination of the estimates. It could be a contingent liability which eclipses many others and utmost care must be taken to make sure that the appropriate level of revenue is drawn from the operating budgets of organisations to ensure that the Treasury Managed Fund continues to put money aside each year. If all the other insurers are having trouble, the Treasury Managed Fund will have trouble too, and I think the Treasurer should be careful to ensure that Health does not just pay \$30 million in one sum: An appropriate amount should be put aside, otherwise there could be a recurrence of problems similar to the problems of unfunded long service leave payments in previous years.

Insurance and risk management are new fiscal responsibilities for the Government. The Treasury Managed Fund does not have a long history in risk management, particularly in the insurance fields for which responsibility is now being accepted. While I am serving my term as a member of Parliament, I will be taking an interest in that matter—not because it concerns professional indemnity insurance, but because it is one of the new areas which could turn out to be a contingent liability that bites in the future. Having boldly and properly set up the Treasury Managed Fund, the Treasurer should pay close attention to its operations because there are new claims and new types of claims coming in, managed only by the GIO as agent. The GIO as an agent has not been a good manager of professional indemnity insurance in the past, and I can relate to the Treasurer my first-hand experience of that matter.

I have been given a personal guarantee by the director-general that NSW Health will be giving instructions and directions to the GIO on how to manage professional indemnity insurance claims, otherwise the next big industrial fight in New South Wales will be when a doctor, who is covered by the Treasury Managed Fund and who is sued, has the claim managed by the GIO, and the GIO—doing what it does best, namely, settling quickly to get a commercial result—leaves the doctor unhappy about the damage done to his professional reputation. That type of action leaves professional reputation unprotected and enables patients to say that because the insurer paid out the doctor must be at fault. In my opinion, that will be the next big industrial issue for professions—not just for doctors but also for nurses, physiotherapists and others.

It goes without saying that the New South Wales Government has been the highest-taxing State Government in Australia and that it has been very lucky to have John Howard as the Prime Minister of Australia. The Treasurer has referred to repayment of debt no longer being necessary, but I point out that repayment of a \$20 billion debt is reduced when interest rates decrease from 10 per cent to approximately 4 per cent. It defies reality that the Treasurer would claim that reduction of the debt is all his own doing. He certainly has paid off some of the State's debt and has used some of the gains for important projects, but much of the saving has been made as a result of the reduction in interest rates. Nevertheless, it must be acknowledged that this Government has been very good in the way it has re-examined and re-explored its strategies. Premier Bob Carr is now saying that he does not like the goods and services tax [GST], whereas everybody else seems prepared to live with it at this stage. The Federal ALP seems to have given away the GST as an issue with possible electoral advantage, but this Government will no doubt continue with its \$120 million political advertising campaign. I will observe with interest the climbing rate of advertisements during what was previously a blackout period.

Staff rates in this State's public hospitals are dwindling. Although the Minister for Health claims that he is infusing more money into the health care system, the reality is that there are 1,600 nursing vacancies currently. In mental health nursing, the position is even worse. As Chairman of the Select Committee on Mental Health, I have no doubt that the Governor will be following the work of the inquiry with interest. Her

Excellency has a great personal commitment to the care of people who are mentally ill, particularly children. I think all honourable members realise that even though as much provision in a budget as one likes can be made to employ more nurses in the health care system, if the nurses cannot be found the service cannot be provided. This Government is endeavouring to develop public and private partnerships. It would do better to examine public and private partnerships with non-government organisations [NGOs], and this is particularly true of organisations concerned with mental health.

The funding for mental health services provided by the NGO services in this State are the laughing-stock of the nation. The funding rate is less than 1.55 per cent, whereas it used to be almost 2 per cent of the budget. But, most importantly, the funding rate is less than \$1.16 per head, whereas in most other States it is between \$5 and \$7 per head through public and private partnerships with non-government organisations providing the services. I live on the North Coast of New South Wales and I am keenly aware of the differences between New South Wales and Queensland in electricity prices, payroll tax, land tax and stamp duties. All of those financial burdens are vastly higher in New South Wales than they are in Queensland, yet our businesses and public service operations have to compete against Queensland's financial advantages. Is it any wonder that New South Wales cannot compete with Queensland? I appreciate that the Treasurer will respond by saying that there has to be some adjustment of the vertical fiscal imbalance, and he is right.

**The Hon. Michael Egan:** Do you mean the horizontal and vertical fiscal equalisation?

**The Hon. Dr BRIAN PEZZUTTI:** Yes, that needs to be fixed. I think Queensland can stand on its own dirty two feet instead of massaging its toes in the sand. Queensland can pay its own way and should not be a mendicant State.

**The Hon. Michael Egan:** That is right. Hear, hear!

**The Hon. Dr BRIAN PEZZUTTI:** I have said so previously and I have always agreed with the Treasurer on that matter. For the life of me I cannot work out why the current Federal Treasurer and Prime Minister cannot see why Western Australia and Queensland should not stand on their own two feet. One can appreciate why South Australia and Tasmania would need consideration, together with the emerging middle-level powers such as the Australian Capital Territory and the Northern Territory, but I cannot for the life of me understand why flourishing States such as Western Australia and Queensland are unable to stand on their own two feet. In areas in which New South Wales has to compete with those States, they rip us off every time, especially when we send a patient to be cared for.

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

**The Hon. Dr BRIAN PEZZUTTI:** They rip us off.

**The Hon. Michael Egan:** Can you give me some details of that? I will follow that up.

**The Hon. Dr BRIAN PEZZUTTI:** Your Minister and directors-general can follow it up. Queensland charges are levied at what is a set Commonwealth rate for outer service. As the Treasurer would know, New South Wales supplies approximately \$8 million worth of health services outside this State because of cross-border arrangements, and Queensland imposes the most outrageous charges of all. Queensland is charging New South Wales patients at a much higher rate, but it only recently upgraded its facilities to a level that is acceptable to New South Wales patients. Evidence that has been given to a number of committees confirms that Queensland is ripping off New South Wales patients. The Minister for Health, who will have those statistics, feels the same way as I do about this issue. We cannot afford to build a teaching hospital at a place like Tweed Heads—an area that is developing rapidly. I congratulate the Minister for Health and the Government on building Tweed Heads District Hospital—a project that was commenced by the former Coalition Government. Stage three of that eight-year project will be completed next year. That area is being developed and services are being provided. However, I do not think anyone has yet filled those mental health beds.

There is a move afoot to try to get outpatients back to that hospital as NSW Health provides higher quality and cheaper services locally. In spite of the run-down state of many of our services and the lack of leadership, this State still has a proud health service—a service that I do not believe is enjoyed by people in Queensland. People from northern New South Wales who are required to attend a teaching hospital have to go to Brisbane. The services that are provided by hospitals in Queensland do not match the outstanding facilities and services provided by the medical profession and by nurses in Sydney. Patients might also have to wait a bit longer for services in Queensland. I do not support the move by the Hon. Ian Cohen to prevent Queenslanders from using medical facilities in Byron Bay.

It is about time that Queensland charged New South Wales patients fair prices for the services that it provides. In medical terms there are no boundaries between New South Wales and Queensland. People who require treatment are referred to services in both Queensland and New South Wales. People from Lismore might go to a hospital of excellence or to a private facility such as John Flynn hospital. If patients are not able to access radiotherapy services in Brisbane they are referred to John Flynn hospital. A good deal has been negotiated with the private operators of John Flynn hospital, which means that it is cheaper to send people to that hospital than it would be to send them to hospitals in Brisbane. Services are provided at marginal cost.

If a private hospital that is operating to make a profit from the services that it provides has an additional 20, 30 or 40 patients, it could provide those services at marginal cost. Any State that has a big public practice will have a big private practice. The mother with three kids might have a lot of dough. It all depends on the way in which private and public partnerships do business. Patients in northern New South Wales are certainly using the public health system in Brisbane. Staff in the public health system in Queensland provide good care and they are compassionate, but Queensland charges New South Wales patients more than it should—an issue that has bedevilled governments for some time. The Treasurer should ask his Minister for Health about his dealings with his health counterparts in Queensland.

**The Hon. Michael Egan:** We might make you our agent-general in Queensland.

**The Hon. Dr BRIAN PEZZUTTI:** That is something that the Treasurer might well do. People in Queensland think that they are on to a good thing. I do not blame them for charging New South Wales patients more if they can. There is no doubt about the fact that more money is being spent in providing health services in country New South Wales. I am sure that health services in northern New South Wales will soon adopt an idea that was first mooted by me and that was put in place by Peter Collins, a former health Minister. That idea has been adopted by the current Government. Under the current formula the Northern Rivers and mid North Coast areas—two of the poorest areas in New South Wales—will receive within 2 per cent of their share of the health budget.

The formula, which needs some tweaking, is currently being investigated by a parliamentary committee. Under the formula Lismore might receive \$5 or \$6 million less than it should receive but, in fairness, it is a lot better off than it was in 1988. In 1988 the Mid North Coast Area Health Service, which encompasses Port Macquarie and Coffs Harbour, was short of about \$60 million. From 1988 until now there has been a gradual increase in health funding because of the certainty in budgeting—an issue on which this Government should be congratulated. Minister Knowles recently announced the Government's three-year health budget, but we do not know what the health budget will be for the following three years.

**The Hon. Michael Egan:** It is ongoing.

**The Hon. Dr BRIAN PEZZUTTI:** We do not know what will happen in 2004-05 or 2005-06. In 2000 the Government announced what the health budget would be but we do not know precisely what it will be in 2005-06. We knew what the health budget would be for 1999-2001 as it was announced by the Minister, but he has not yet made another announcement about the budget for 2005-06. The health budget for northern New South Wales was deficient, but we knew that that deficiency would be corrected. Prince Alfred Hospital is now \$30 million over budget. That hospital has a number of problems, which is why it was paid a visit today by the Premier.

**The Hon. Michael Egan:** And me.

**The Hon. Dr BRIAN PEZZUTTI:** Was the Treasurer made aware of the problems being experienced by that hospital? Was he made aware of the shortage of nurses? That hospital, which has 160 nurses, is \$30 million over budget. I hope that the Treasurer paid that hospital a visit to determine why it has been spending money in that way. I am pleased that the Treasurer is in the Chamber as I wish to refer to a capital charge for health facilities. Recently Mr Barker from the health department gave evidence to a committee about a capital charge for health facilities—an issue on which I would not necessarily disapprove. If there were a capital charge for health facilities in this State it would provide us with an overall cost. The Government's initial idea was to charge 25 per cent, 50 per cent or 100 per cent for health facilities in their first two years of operation, which would ensure that area health services got their fair share of the health budget.

However, if we are to achieve that we would have to determine what each building would return. Such a program would ensure that the people of New South Wales were aware of the real costs of running our health

system, not just the recurrent costs. Last year we established that the Government was paying an access charge of \$7.06 million to an unnamed operator of Port Macquarie hospital. That is a reasonable amount of money to maintain hospital buildings and to make a profit on investments. That is the capital cost for Port Macquarie hospital—the same sorts of costs that the Treasurer is paying for the maintenance of Coffs Harbour hospital. I heard an area health service chairman recently stating, "The Government just gives us capital money." That is not the way in which area health services should be operating. They should be responsible in their capital expenditure. It should be spent fairly and wisely across the State. That sort of money is being spent on health services in this State to benefit all our constituents. The Government is placing a capital charge on health facilities so we are aware of the health budget, which is the decent way to go.

The system, which is transparent, gives us a fair idea of health service costs. We are aware why certain facilities are built in one area and why they are not built in another area. Hospitals should provide services to all citizens in New South Wales, regardless of morality, age, sex, disadvantage and so on. There are many more issues to which I would have liked to refer but, as this is my last speech in the Address-in-Reply debate, I wish the Governor and her family well. She started off her term as Governor brilliantly. Her daughter, who works in Parliament House, is an outstanding individual. I wish her well for the future. I hope that the Treasurer listened to some of the things I had to say tonight. When I leave this Parliament and return to private practice, I am sure that I will experience a number of problems in the health area—a difficult area in which to work.

**The Hon. Michael Egan:** If I ever need an anaesthetist, I will come looking for you.

**The Hon. Dr BRIAN PEZZUTTI:** The Treasurer will not have to look too hard as I will be at home in Lismore. I wish the Minister and this Government well. I hope that they are able to do what is required in this State. Opposition members will support and advise the Government as much as they can to achieve what has to be achieved in this State. However, Opposition members will also criticise this Government when it needs criticism. They will also make policy statements relating to alternative policies and directions. The Treasurer would do well to listen to some of the criticisms that are made by Opposition members as they are constructive criticisms. Although some politics are involved in all this, the Treasurer is bound to learn something from the operations of the Select Committee on Mental Health. That committee, which comprises a good team of members, operates in a bipartisan way. To date that committee has received 270 submissions and lots of references, which all say much the same sort of thing. It is not just dollars that are required in the health area; we need a change of attitude by this Government. I am sure that the Treasurer will be interested in that committee's report and I hope that he will implement its recommendations.

**The Hon. IAN COHEN** [9.19 p.m.]: I listened with interest to the contribution of the Hon. Dr Brian Pezzutti. I do not intend to speak in this debate at great length, particularly as there is so much business before the House. I concur with the Hon. Dr Brian Pezzutti that Governor Marie Bashir was a wonderful choice as a representative of this State. I met the Governor on a few occasions. One of those occasions was when I co-hosted the Homelessness Summit. I recall the Governor was extremely gracious and obviously well aware of the issues at hand. The summit provided us with the opportunity to draw the issue to the attention of the Parliament and the public. The Governor's attendance was greatly appreciated. She acted in a manner that was extremely endearing to everyone involved in the summit, including the organisers and members of the audience.

The Speech delivered by the Governor at the opening of the third session of the Fifty-second New South Wales Parliament was a carefully constructed piece of Government rhetoric that announced some grand directions. Whilst I am sure the Governor announced those directions with great faith and integrity, down the track such promises amount to empty words when measured against the evidence of policy and legislative initiatives of the Government during that period.

At the outset, however, I wish to refer to what I believe to be a fantastic series of Government initiatives. I do not believe it is appropriate to be critical of the Government simply for the sake of it. Certainly the Drug Summit was a significant step in the right direction. I was pleased to participate in the summit. A spin-off from the summit has been consideration of an extension of the trial of the medically supervised injecting room. The issue has been grasped by the Government and its Ministers, particularly the Special Minister of State, and it is to the Government's credit that it has followed up on the issue. The young offenders legislation is also a significant step in the right direction. Youth drug courts have played a significant role in supporting young people with drug problems and providing them with opportunities, rather than allowing them to go on a downward spiral leading to incarceration. I will return to that matter shortly.

The Governor proudly announced the continuation of the water reform process. It has been a disappointing reform package for New South Wales waterways. The regulation of irrigation and access to farm

dams have been contentious issues in water management for many years. Whilst the water reform process is a start, there is a long way to go. The farm dam policy introduced by the Government in 1999 let down irrigators and the community when it allowed farmers to access up to 10 per cent of run-off from waterways without any regulation whatsoever. This and other structural inadequacies in the planning of the water reform package have left irrigators operating in an environment of great uncertainty. This has made water flows for environmental purposes the enemy in the process. The various needs of irrigators need to be acknowledged and addressed.

A number of irrigators spoke to a crossbench briefing only a few days ago. As a conservationist I feel strongly committed to environmental flows, but I believe there are things that can be done for irrigators, particularly small irrigators. The entire area is in great danger of being bought out by large international combines, mostly American business interests. The smaller farmers and irrigators will suffer greatly, and there is real concern that once again we are flogging off the family farm. There have been few outcomes for water flow objectives throughout this process. There have been few outcomes for maintaining flows for better water quality, healthier wetlands and better habitats for native fauna. There have also been few outcomes for more successful breeding of native fauna, and healthier in-stream and riparian vegetation to reduce erosion and turbidity.

During the previous Parliament I had, and for the duration of this Parliament I have had, an ongoing interest in forests. The Government's commitment to extend the forestry structural adjustment package to promote a sustainable native timber industry is commendable. However, I wonder whether the proposed Mogo charcoal plant is an example of the Government's strategy to develop such a native timber industry. The campaign opposing this plant, in which I have been involved together with the local community, has led me to deeply question the processes of decision making within State Forests. No doubt through a process of gaining access to various documents and making them publicly available we will learn more about what I believe to be dubious planning procedures on the part of State Forests.

Some time ago, as a member of the Standing Committee on State Development I was involved in an inquiry into the use of pesticides. The Governor referred to that inquiry in her Speech. The committee made many recommendations for environmental precautions, but none of those recommendations has been implemented. After investing the time and money of the Parliament and the community the Government has once again chosen to ignore environmental planning recommendations that would ensure the protection of the environment of New South Wales.

The narrow vision of the Government on environmental planning is evident in the handling of the Gene Technology Bill, which is due to pass through this House this week. The lack of consultation and last-minute shifting of the issue from the Health portfolio to the Agriculture portfolio amounts to either hiding confusion or various Ministers ducking responsibility for a contentious issue. The bill is not supported by the majority of New South Wales farmers, and potentially it will cause huge problems on the international market as we lose the market share. The European Union and a number of significant Asian markets do not want the potential contamination of genetically engineered [GE] products going to their markets. It is a tragedy that the New South Wales Government has not clearly assessed the situation. Victoria is considering the establishment of GE-free areas, and Tasmania is considering making all agricultural areas GE-free. However, the New South Wales Government is taking very little notice of the wise moves of those States. I believe this will have a significant negative economic impact on this State.

The Government's refusal to negotiate on critical amendments to ensure a precautionary approach means that this week it will attempt to deny the citizens of New South Wales a future free of genetically engineered food. I believe that is a huge mistake. In her Speech the Governor also referred to pollution. I have taken a great deal of interest in the Rhodes inquiry and the various methods of remediation of what I believe to be the most toxic site in Australia—indeed, one of the world's most toxic sites. The proponents for remediation and the government agencies are still undecided about the most appropriate technology to remediate the site.

This issue will not go away for generations. It is incumbent on the Government to act now to clean up those sites. When they are cleaned up, the Government should think carefully about the type of development it will allow on those sites and any infrastructure problems that may develop. Given the number of people moving into those areas, the Government should give consideration to access for road transport and to the impact on the amenity of people already living there. The Governor talked about the Government's long-term commitment to social infrastructure in Western Sydney. However, the latest budget figures show little funding for public transport infrastructure in new urban release areas throughout Western Sydney. The failure to plan and pay for this vital infrastructure risks unemployment and disadvantage in those areas.

The Department of Community Services [DOCS] inquiry has revealed long-term structural weaknesses in the management of critical community services. The Council of Social Service of New South Wales analysis of last night's budget shows that in real terms there has been no increase in funding for the community services grants program, which funds youth and family support services. Until the Government invests in these services, families and children will miss out because DOCS will have insufficient resources to cope with referrals. This state of affairs is the result of negligent long-term planning and makes a mockery of the Government's commitment to build stronger families and communities.

On 30 April I issued a media release about the controversy surrounding Carmel Niland, and this coincided with the Ombudsman's release of a damning report on the Department of Community Services entitled "DOCS—Critical Issues". Of critical interest to the Greens in the DOCS report were the hundreds of unallocated child protection cases—including seven matters where children were assessed as being at immediate risk of harm at just one DOCS community service centre—a huge increase in abuse notifications for the DOCS hotline, an inability to deal with the increase, inadequate risk assessment and risk management, and totally inadequate systems of record-keeping and support. These sorts of problems are facing DOCS daily, and it is the responsibility of the Government to protect those very vulnerable people in our society.

The Governor talked also about promoting an inclusive and tolerant society. I have my doubts about the Government's delivery of this fine rhetoric. It has increased police powers, passed the security legislation amendment, will be passing legislation to mirror the Senate inquiry into terrorism, and has tightened the bail laws to remove the right to bail for those who have past convictions—even though the convictions might be 20 or more years old. People will be severely disadvantaged by this new legislation. It goes against the recommendations of the report of the royal commission into black deaths in custody.

An increasing trend under the guidance of this Government has been to direct funding towards prisons and policing sectors. Although this funding may mean more police, the Greens support the funding of the education sector as a more appropriate strategy for prevention of crime in the community. There has been no increase in funding for community legal centres, despite the increased need for advice and advocacy as a result of the change to police powers and the bail laws. Despite the good intentions of the Government and its early rhetoric, there seems to be a knee-jerk reaction to the views of certain shock jocks in the community who claim that we need more prisons and police and that the breast-beating agenda is the way to go. From a Greens perspective, this is disappointing. We need a government that is more tolerant and looks more creatively at the major social issues facing New South Wales at this time.

**Motion agreed to.**

#### **Presentation**

**The DEPUTY-PRESIDENT (Reverend the Hon. Fred Nile):** I have ascertained it to be the pleasure of Her Excellency the Governor to receive the Legislative Council's Address-in-Reply to Her Excellency's Opening Speech at Government House on Thursday 6 June 2002 at 3.30 p.m.

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

That the House do proceed on Thursday 6 June 2002 at 3.15 p.m. to Government House and there at 3.30 p.m. present to the Governor the Address-in-Reply to the Speech Her Excellency had been pleased to make to both Houses of Parliament on opening the session.

#### **DRUG SUMMIT LEGISLATIVE RESPONSE AMENDMENT (TRIAL PERIOD EXTENSION) BILL**

#### **Second Reading**

**Debate resumed from an earlier hour.**

**The Hon. DAVID OLDFIELD** [9.35 p.m.]: Last week, with a number of other members of the House, I visited the injecting room at Kings Cross. I had a very educational time there for probably an hour and a half. With me were the Hon. Ian Cohen, Ms Lee Rhiannon, the Hon. Peter Breen and the honourable member for Manly. We were one happy group being educated about the operations of the injecting room. No-one was there at the time, the centre was not open, and the visit was very interesting. What is done at the injecting room, from all appearances and from what I saw and heard, is extremely professional and the staff are obviously very caring in their approach to this difficult problem. I am not certain that I can say I am overly supportive of such facilities but I make it clear that does not in any way detract from what was a very professional operation run by people who were doing an extremely good job.

Judgment with regard to drug use is difficult for all of us. I am one of the few people in my demographic who can say that I have never partaken, even the slightest amount, of any illegal substance—neither a single puff of marijuana nor anything of that sort has ever passed my lips. I am not by any sense of the imagination a wowser. I very much enjoy a drink; these days it is mostly red wine, which is like a Berocca in every glass. It is good for your health and improves blood flow—especially a New South Wales red from the Hunter. I pay homage to McGuigan's 1998 Shiraz, our house red. It is a very fine wine at an exceptional price. Despite a background surrounded by temptation, including three years touring the country in a rock band and seeing so many things take place, I have never found myself pushed to take drugs. I have been encouraged by many people to indulge in recreational drugs, particularly ecstasy and cocaine, but I have always determined that was not the path for me.

I try not to judge people who are recreational drug users. It is difficult—people are breaking the law, and I do not suggest that is a good thing. What concerns me more, however, are drug addicts and what we see taking place with heroin at the so-called safe injecting room. I am aware that the safe injecting room, by its own statistics, has saved the lives of perhaps a couple of hundred people—addicts who have overdosed on the premises but who were saved by the staff at the centre. Once again, I do not detract from any work being done by the staff on those premises. However, I am a fervent believer in what I can only fairly describe as forced rehabilitation. I believe that if persons become addicted to substances such as heroin, just as we have a responsibility to assist them, they have a responsibility to partake of that assistance. In this case, however, it might be unfortunate that that is not voluntary. Therefore, as I said a moment ago, we should have a forced rehabilitation program.

I agree that we should not treat drug addicts as criminals. They should be treated as people who have an illness. However, those who supply addicts with drugs should be treated with the utmost contempt, and treated as badly as the law can possibly treat them. There is no question about that. Interestingly, there are a couple of different ways of looking at why we do not force people into rehabilitation. For example, if one of us had the bubonic plague, we would quickly grab that person and isolate him or her. We would do that because we would be concerned not so much for that person as for the fact that he or she would pass the disease to somebody else. It is interesting that we do not isolate drug addicts, intravenous drug users or those who use other substances intravenously.

I can only conclude that we do not do that because there is an acceptance that it is all right for some people to take drugs regardless of their legality and regardless of the danger to themselves. I must conclude that we allow that situation to continue because these people are, in many respects, only damaging themselves; they will not pass their addiction on to someone else. Drug addiction is not like a disease with which an innocent bystander can come into contact. It is interesting that we will isolate someone who has an illness that someone else might catch in most circumstances—although some illnesses are not disclosed these days—but we will not isolate intravenous drug users who are doing great harm to themselves. That is an incredible double standard.

I believe it is in the interests of drug users for them to be isolated and put through a forced rehabilitation program. Once again I do not wish to detract from the work being done at the injection room, but I cannot support continuation of the trial. Indeed, I am not sure I could ever wholeheartedly support such a facility when I believe that funds, administration and work should be used to get people off drugs, rather than to provide a place where they can inject safely, so to speak. As I said, we isolate people with diseases because they might infect others, but we do not isolate drug users. There is an infection in the community relating to drug use. If nothing else, that infection is crime and the victims of crimes committed by drug users in their need to secure money to fund their habit. It is wrong for us to think that there are people in society who are not infected by those around them who are drug users. By virtue of the social aspects surrounding drug use, they are infected by the crime that is committed. That infection simply takes place in a different way.

**The Hon. RICK COLLESS** [9.43 p.m.]: I have some very deep and personal feelings about the drug injecting facility in Kings Cross which I will share with the House tonight. I cannot claim to have a great working knowledge of the drug industry—something for which I am eternally grateful. My experience with drugs stems mainly from what I saw in Cabramatta following the inquiry into police resources in Cabramatta. I observed some situations and dreadfully degrading scenes on the streets of Cabramatta and surrounding suburbs. My personal views on these issues relate principally to financial aspects of the drug industry. The drug problem will not be resolved until such time as the huge financial rewards to those who peddle these illegal substances—in effect, they are essentially guilty of attempted murder, as these are dangerous and very toxic substances—

**The Hon. Richard Jones:** Like tobacco.



**The Hon. RICK COLLESS:** I said that they are illegal and very toxic substances. Tobacco is not illegal.

**The Hon. Richard Jones:** It's deadly.

**The Hon. RICK COLLESS:** The point is that it is not illegal. Those who peddle these substances must be removed from the industry permanently. To me personally, heroin has no value. A teaspoon of sugar has more value to me than a cap of heroin. As I have no use for heroin, it has no value, and we must strive to remove the value from heroin. Heroin has a value only to those who are addicted to it; it has no value to anyone else. Remove the addiction and the value of heroin is removed. I believe that that is the key to solving the drug problem. I refer honourable members to the story of the Sydney footballer who was sentenced to 50 years in a Thai gaol for peddling drugs. I think his name is Lyle Doniger.

**The Hon. Richard Jones:** Is he still there?

**The Hon. RICK COLLESS:** No, he returned to Australia recently after receiving a royal pardon from the King of Thailand. During the six years he was locked in a Thai prison he had no access to heroin, to which he was addicted. When he returned to Australia he was cured of his addiction. He is on record as saying that he is now clean; he does not crave the heroin to which he was addicted when he went to Thailand. I am concerned that the concept of the injecting room does not remove the addiction. It merely facilitates those with addictions to get their daily dose of highly toxic, illegal substances. To be truly successful, such facilities should be more focused on helping addicts to overcome their potentially lethal addiction. The interim report on the injecting room identifies that only one in 30 people who used the facility were referred to another organisation for further help. The Government's policy of harm minimisation is not popular, particularly amongst the people in rural and regional Australia whom I represent in this place.

**The Hon. Peter Breen:** It is one in three, not one in 30.

**The Hon. RICK COLLESS:** One in 30 is what I read in the report tonight. The community drug action teams throughout rural and regional New South Wales are stumbling for direction. Most people in rural and regional areas support zero tolerance. I refer the Minister to the kNow Drugs campaign being promoted by the mayor's drug advisory committee of Inverell Shire Council, which has a zero tolerance focus and has achieved a remarkable awareness level amongst all people of all ages in the Inverell shire.

**The Hon. Ian Cohen:** That's head in the sand stuff.

**The Hon. RICK COLLESS:** It is not head in the sand stuff. It is a community acknowledging what it believes is the direction we should take to deal with the drug problem. As I said, people of all ages, from the older population through to school kids, are walking the streets handing out kNow Drugs campaign stickers and collecting donations from the community to help this program progress.

Many other councils in New South Wales have contacted the Inverell Shire Council with a view to running a similar campaign in other areas of the State. I understand that the Inverell Shire Council requested supplementary funding from the Minister for their program, and the Minister acknowledged that he would provide it, but unfortunately as yet it has not been forthcoming. We must do more in a number of areas to help solve this problem. Firstly, we must rebuild the importance of the family and family values as the foundation stone of our society. It is important to educate young people to prevent them from being attracted to drugs in the first instance. The kNow drug campaign of the Inverell Shire Council has been very successful and has raised the awareness of the drug problem amongst the younger generation.

As the Hon. David Oldfield said, we must also focus on bringing the people who peddle the substances before the full force of the law. We must also bring those with addictions to accept that they must kick the habit. They cannot have a philosophy of continuing their habit. They must have the mindset of wanting to kick it completely. Finally, we must instill in the community a philosophy of zero tolerance. They have to be able to say no to drugs. I concede that proper programs or rehabilitation centres should be available to addicts to help them kick the habit. But the drug injecting room does not meet that requirement and simply provides a facility for addicts to continue their addiction. The drug injecting room may well provide a safe haven for an illegal activity, but how many heroin addicts are no longer addicts as a result of the activities in the drug injecting room? How many addicts have kicked the habit? I do not support the extension of the trial period, and I will certainly vote against it.

**The Hon. RICHARD JONES** [9.52 p.m.]: On 27 May the editorial in the *Sydney Morning Herald* found that the medically supervised injecting centre, as it is now called, was in fact a success. The article states:

... the trial must be marked a success on one vital measure. In the injecting room's first year, addicts there overdosed on heroin, cocaine and other drugs 250 times and no-one died. In back alleys and darkened doorways, but also at home, the overdose death rate would be as high as a fifth, even a third. At Kings Cross, prompt medical intervention saved perhaps 80 lives.

As a result of the injecting centre being available the lives of as many as 80 people have been saved. Maybe 30 or 40 of those people who are still alive could enter society as non-addicted citizens at some point. They could be the sons and daughters of members of this Chamber or other Parliaments, of those in business or other successful people. These lives have been saved.

**The Hon. Rick Colless:** How many kick the habit?

**The Hon. RICHARD JONES:** These people are still alive, that is the main thing. Most people who become addicted to heroin eventually kick the habit. I know a successful doctor in a senior position who was addicted to heroin for 15 years. He was in a position where he could obtain heroin without having to rob or burgle people, and he has been totally clean for a number of years. I know of another person whom other members in this Chamber know who was addicted in his twenties and is now a very successful and respected person in the community. Many people who have been addicted to heroin in the past have got off it. I know of a person who got onto heroin because her mother committed suicide. She felt pain from that, met up with someone who had heroin and she got onto it for a number of years. I do not know what she is like now but I just hope she got off it.

**The Hon. Rick Colless:** That is why you have got to go back and rebuild the family unit.

**The Hon. RICHARD JONES:** I totally agree, but we have to rebuild it brick by brick. We should start with early intervention in the homes of those people who are disadvantaged. I am sure the Hon. Rick Colless has met a number of people addicted to heroin, as I have, and very often they come from broken homes. One of the parents may have been a sexual abuser or the mother or father may have been an alcoholic, and very often, but not always, they come from broken homes. The people to whom I have spoken who have used heroin for a number of years carry their pain with them. One person said to me that it is the only way they can feel normal, and that is a terrible situation to be in.

**The Hon. Ian Cohen:** A lot of heroin users have been abused as children.

**The Hon. RICHARD JONES:** That is absolutely true.

**The Hon. Charlie Lynn:** A lot of groups such as Insearch that run these programs for people from abused families are against the heroin injecting room.

**The Hon. John Della Bosca:** They are entitled to their opinion.

**The Hon. RICHARD JONES:** As the Minister said, they are entitled to their opinion. New South Wales is having an experiment with one injecting centre.

**The Hon. Charlie Lynn:** You have had your experiment.

**The Hon. RICHARD JONES:** It is not finished yet. We need more time to find out how many of these people have got off the habit, and how they got off the habit. This is the first time some people from Kings Cross have had contact with medical people. These people are generally street people who do not have homes in which to inject. They are at the lower end of the social scale and are sometimes very desperate people who have been injecting in quite disgusting circumstances in back alleys and so on. Now for the first time they can talk to people at the centre about their problems and get referrals, as they have been doing. It has to be worthwhile if 80 lives of ordinary young men and women have been saved. Surely that alone is worth it. How much is one life worth? What is the life of a son or daughter worth? How much would the Hon. Charlie Lynn put on it? Would he sell everything he has to save the life of his son or daughter?

**The Hon. Charlie Lynn:** Yes, but what do we do for the people in rural New South Wales who do not have access to Kings Cross?

**The Hon. RICHARD JONES:** I absolutely agree. What do we do with people in rural New South Wales? Can we extend this experiment to Orange, Bathurst and Wagga Wagga, where they may have a similar problem?

**The Hon. Dr Brian Pezzutti:** No.

**The Hon. RICHARD JONES:** The Hon. Dr Brian Pezzutti would allow these people to die from overdoses. I thought he was a doctor. The Hon. Dr Brian Pezzutti is addicted to the most dangerous drug on earth. The editorial in the *Sydney Morning Herald* continues:

We do not know whether it slowed narcotics abuse and there is no guarantee the trial will revive or maintain these addicts if there is a next time, which seems probable for some. But the trial passed its first test. It kept alive people who would otherwise be dead. It falls to drug users and their helpers, but mostly the users, to beat their habits. But the chance of that, at least, was kept alive, too.

The most important aspect of this test is that about 80 people, some of whom may still be heavily addicted, are walking around now. At least they have a chance of getting off the habit and leading reasonable lives. At the weekend I met a neighbour from up north who actually robbed 17 banks, for which he went to gaol twice, when he was a very heavily addicted heroin user. He is now totally free of the habit and has joined society again but four years ago he was a hopeless case. He went to Grafton gaol for long enough and managed to pull himself out of his own habit.

**The Hon. Dr Brian Pezzutti:** Did he get off it?

**The Hon. RICHARD JONES:** Of course he had to get off it, but he made the decision; he was not forced by somebody else. He said, "I have had enough". He was 40 years old and was still using heroin. Most people get to a mature age and get off it eventually when they are 40 or 50. We do not find many 50-year-old addicts in Kings Cross; they are mostly aged between 25 and 35 and they almost always get off the habit at some point. Unfortunately some die, or they can go to an injecting centre and hopefully will live long enough to get off the drug. Most of them eventually stop using heroin. Bear in mind that most heroin users are not addicted. The bulk of them are weekend users.

**The Hon. Rick Colless:** They should know better.

**The Hon. RICHARD JONES:** It is playing Russian roulette, I agree. They are not addicted but they are using an extremely dangerous drug—as is tobacco, as the Hon. Dr Brian Pezzutti would well know.

**The Hon. Dr Brian Pezzutti:** Highly addictive.

**The Hon. RICHARD JONES:** Highly addictive and highly dangerous, and kills 50 per cent of its users. Yet some National Party people grow this drug.

**The Hon. Rick Colless:** Not any more. There is no tobacco grown in New South Wales.

**The Hon. RICHARD JONES:** They grow it in Mareeba.

**The Hon. Rick Colless:** There is no tobacco grown in New South Wales.

**The Hon. RICHARD JONES:** It is grown in Mareeba and brought over the border as chop chop, illegal tobacco. If tobacco were made illegal, like heroin, trade in illegal tobacco would be enormous. Tobacco would be very expensive, and tobacco addicts would be robbing homes and banks to buy tobacco to support their addiction. They would not be able to give up—like some people in this Chamber who cannot give up this habit. If tobacco were illegal, people would do whatever they had to do to get it. That is the key to the drugs problem. I am depressed by the attitude of some National Party members towards problems caused to individuals and society by those addicted to drugs such as heroin, cocaine and amphetamines. I fully support the extension of the medically supervised injecting centre. Indeed, I believe that other centres should be tried in other areas where there is a high incidence of intravenous drug use.

To call people who become addicted to heroin and other drugs junkies is to turn them into objects of disgust. We have to recognise that intravenous drug users are sons and daughters who need medical help. In some countries there is a real recognition that drug use is a medical problem and that the war on drugs being waged primarily by the Americans is unwinnable. It merely puts more and more people in gaol, further alienating them from society. The crime rate is about four times higher than it would be if the drug problem were handled in a different way. We need to recognise that people will use drugs of one sort or another regardless of whether they are legal or illegal. In fact, this country had a thriving drug trade for about 40,000

years. Drugs were traded right across Australia for things like boomerangs, ochre and so on. Pituri, the drug of choice of many Aboriginal nations, was widely traded. It is probably quite an addictive drug. I have never tried it, but it is a native drug that is available. There may still be trading in the drug in Australia as far as I know.

As I have said, if tobacco were made illegal, users would obtain it by whatever means were necessary. Even if they had to buy chop chop, they would still get it. There would be an increase in corruption, robberies, bank crime and so on if tobacco use were made illegal. The ridiculous thing is that tobacco is far more deadly than some drugs that are illegal. We should be looking at the whole question of legalisation. Why is it that some dangerous drugs are legal yet other drugs are illegal? This issue is riddled with anomalies. Valium is a dangerous drug. It is a legal drug, and it can be dangerous if misused or abused. Heroin is not all that dangerous if it is pure and taken in supervised doses, as the Hon. Dr Brian Pezzutti well knows.

Heroin per se is not a dangerous drug. Only when it is abused, mixed or misused does it become dangerous. I talked to Jim Snow, the former Federal member for Monaro, and he told me that back in the early 1950s he used to dispense heroin in his pharmacy, before it became illegal. He said there was no problem then. He told me about one lady who used to overuse it. She would take the heroin away in a bottle and come into the pharmacy off her face. He said that was the only problem there was. The real problems came when the drug was made illegal in 1953—when it became glamorised and illegal. There would in fact be no problem with marijuana if it were legal. Those who use it today would still use it. There would be no more and no fewer of them. Fortunately, marijuana is cheap because it is grown by quite a number of people. There is no major crime problem associated with it. It is because heroin is so expensive that so much crime is associated with it. About 80 per cent of crime is drug related, mainly to expensive drugs.

People who have been using the medically supervised injecting centre have, in some cases for the first time, been in contact with medical people. They are accepted, if you like, by the non-using community. Many of them who had been mixing in only the user community are now finding they are meeting with people who can show them that this is not a very glamorous way of life and that there are alternatives. I believe the medically supervised injecting centre will work very well to bring people to treatment for their use of heroin and other drugs. The centre is working. It has already saved a number of lives.

I fully support the bill. When the medically supervised injecting centre has been proved to save lives and helps people get off the pernicious drugs that they are injecting, they will be able to return to what we regard as a normal way of life. At least they would break the drug cycle and hopefully be able to live happy lives away from drug use. Let us hope that this centre works because a number of people desperately need help, desperately need contacting and need to get into programs to help them get off drugs, legal and illegal.

**Debate adjourned on motion by the Hon. Peter Primrose.**

## **LAND AND ENVIRONMENT COURT AMENDMENT BILL**

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

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

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

## **ADJOURNMENT**

**The Hon. JOHN DELLA BOSCA** (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [10.10 p.m.]: I move:

That this House do now adjourn.

## **GRAFTON BRIDGE**

**The Hon. Dr BRIAN PEZZUTTI** [10.10 p.m.]: I raise the need for a bridge in Grafton across the Clarence River. The present bridge was opened in 1932. It was constructed as a rail bridge. The roadway on the upper level was an afterthought to cater for the increasing number of motor vehicles being purchased at the time. The Grafton bridge is an integral part of Main Road 83, linking South Grafton with Casino and Kyogle and on

to Brisbane—the Summerland Way. The Grafton bridge across the Clarence River at Grafton is second only to the Sydney Harbour Bridge as being the longest water crossing in New South Wales. Sixty-six per cent of respondents to a survey listed the construction of a new bridge for Grafton as the most important need for the city to adequately cater for current traffic requirements and future growth.

The survey was conducted jointly by the Grafton City Chamber of Commerce and the *Daily Examiner* in October–November 2001. Official 1998 figures from the Roads and Traffic Authority [RTA] show that 24,000 vehicles use the bridge every day and the rate increases approximately 2 per cent per annum. Ninety-five per cent of all traffic using the Grafton bridge is local traffic and traffic flow on the Grafton bridge includes more than 100 bus movements per day, 60 per cent of which are school buses. Hundreds of prime movers use the Grafton bridge each day, including many B-doubles that are now permitted to use the structure. As honourable members would know, the bridge has a bend in the roadway at each end.

During the past couple of months, because of the bushfires in the area and motor vehicle accidents on the Pacific Highway between Grafton and Ballina, the RTA has been diverting traffic via the Summerland Way and across the Grafton bridge on numerous occasions for lengthy periods, including Boxing Day 2001. In some cases the divergences have remained in place for up to 24 hours. On two occasions during the week commencing 24 February 2002, traffic was diverted owing to motor vehicle accidents. These diversions created extremely heavy traffic flow on the present structure. There is little doubt that these instances will continue to occur.

Depending on the site selected, the estimated cost of the new bridge could be as low as \$35 million. The cross-city tunnel for Sydney, which was announced by the Minister for Roads, the Hon. Carl Scully, in February this year, will cater for 17,000 vehicles each day at a cost of \$640 million. The recent opening of stage two of the inner-city bypass in Brisbane caters for up to 8,000 vehicles per day at a cost of \$220 million. The RTA is considering funding stage four of a local road system in Coffs Harbour to cater for 8,000 vehicles per day at an anticipated cost of \$80 million. The City of Grafton is unique because the business-retail sector and the city's residential areas are split by the Clarence River. Therefore most residents at some time during a normal day are forced to use the Grafton bridge for work, business, education or recreation.

The Grafton City Council and the surrounding local shires of Copmanhurst, Maclean and Pristine Waters have listed a new Grafton bridge as their number one priority in their respective plans of management. The Richmond River Shire Council, Kyogle Council and the Summerland Way Promotion Committee also consider a new Grafton bridge to be of the highest priority. The Grafton City Chamber of Commerce and Industry has listed a new Grafton bridge as the highest priority in its strategic plan. The Grafton Police Customer Council supports the construction of a new Grafton bridge to assist with better local traffic flow. There is no plan, official or otherwise, for the present structure for the short term—or for the long term in relation to maintenance, improvements or replacement of the present road crossing.

Maintenance on the present structure could be described only as at a very low level. Although no major structural problems are evident, the lack of maintenance gives the present structure an uncared-for appearance. Should a major structural problem become evident at the Grafton bridge, the alternatives would pose enormous financial burdens and inconvenience on the residents of Grafton and the surrounding areas. The present two-lane crossing includes two bends and causes a bottleneck for morning and afternoon peak flows during the day, particularly when the motorists who are driving on the bridge are confronted by a prime mover travelling in the opposite direction. Motor vehicle accidents on the Grafton bridge usually occur on one of the two bends and bring traffic to a halt for varying periods.

The new approaches constructed by the RTA on the north side and the south side of the Clarence River have been welcomed by motorists. However, problems are being caused owing to two lanes converging into the one-lane roadway over the bridge. Emergency service organisations have expressed concern about access to motor vehicle accidents on the bridge and emergency vehicle access between Grafton and South Grafton at problem times. If the new Grafton bridge could be located downstream from the present structure, the expense of operating the Ulmarra ferry may be obviated. Some motorists, particularly elderly drivers, are very hesitant about using the bridge at all and will use it only when they really have to. Government spending to the tune of \$20 million in the 2001–02 financial year on upgrading the Summerland Way will continue to encourage more motorists to use this alternative route to Brisbane. The Grafton bridge is a vital link on that route.

The financial implications of the limitations of the present road crossing are unknown. Many locals feel that it is a huge deterrent to investment by local people and others. Government investment indicates confidence

and encourages private enterprise to invest. In turn, that creates growth and opportunities for the community. Doing something for the bush would be good for the Government! On 19 July 2002 the Grafton bridge will mark the seventieth anniversary of its official opening to rail and road traffic. That would be a great opportunity for a public announcement of a commitment to give the people of Grafton their long-overdue dedicated road bridge. I notice that this year's State budget includes \$100,000 which has been allocated to investigation. I hope that is a sign of a real commitment to building the new Grafton bridge—a bridge that is sorely and desperately needed in country New South Wales.

### QUEEN ELIZABETH II GOLDEN JUBILEE

**Reverend the Hon. FRED NILE** [10.15 p.m.]: I offer a brief tribute to Queen Elizabeth II, who celebrates the Golden Jubilee of her reign from 1952 to 2002. In the Queen's Accession Speech she stated:

I shall always work, as my father did throughout his reign, to uphold constitutional government and to advance the happiness and prosperity of my peoples, spread as they are all the world over.

As honourable members know, the Queen's reign began unexpectedly on an ordinary Wednesday in 1952. The Queen's father, King George VI, died suddenly at Sandringham on 6 February after several years of ill health. News of his death reached the 25-year-old Princess Elizabeth on the afternoon of 6 February in Kenya, just as she and Prince Philip had begun a Commonwealth tour. Having left Britain as a Princess, she was to return as Queen.

Following the funeral of King George VI and the 16-week period of Court mourning, there was an opportunity for national celebration during the following year with the coronation of Queen Elizabeth II in Westminster Abbey on 2 June 1953. From the earliest days the Queen took to her new role with energetic commitment, dedication and devotion as she fulfilled, and continues to fulfil, her coronation oath, with God's enabling and strength. On 4 June 2002 the Queen gave a speech at Guildhall before the Lord Mayor, the Prime Minister and other officials. I will read some extracts of her speech:

I am more than conscious at the moment of the importance of football. Although this weekend comes about half way through my Jubilee year, as far as we are concerned, it bears no relation to a rest at 'half-time'. However, I am very glad that the fiftieth anniversary of my accession is giving so many people all over this country and in the Commonwealth an excuse to celebrate and enjoy themselves.

It has been a pretty remarkable fifty years by any standards. There have been ups and downs, but anyone who can remember what things were like after those six long years of war, appreciates what immense changes have been achieved since then. Not everyone has been able to benefit from the growth of welfare and prosperity but it has not been for lack of political will. I think we can look back with measured pride on the history of the last fifty years.

Since the spring of this year I have travelled extensively in this country and in the Commonwealth. It has been wonderful to experience the many special events which have brought together volunteers of all ages and organisations of all kinds.

At every stage along the way, Prince Philip and I have been overwhelmed by the crowds waiting for us and deeply moved by the warmth of their welcome. We are both much looking forward to our visits to Wales next week, then on to the other regions of England and in the autumn to Canada."

Her Majesty went on to state:

I take this opportunity to mention the strength I draw from my own family. The Duke of Edinburgh has made an invaluable contribution to my life over these past fifty years, as he has to so many charities and organisations with which he has been involved.

Her Majesty concluded her speech with the following words:

Your hospitality at this event, my Lord Mayor, is typical of the spirit of this Jubilee and the kindness shown to me by so many people over the years. I would like to give my heartfelt thanks to each and every one of you—here in Guildhall, those of you waiting in the Mall and the streets of London, and all those up and down this country and throughout the Commonwealth, who may be watching this on television. Thank you all for your enthusiasm to mark and celebrate these past fifty years."

I will conclude my tribute by referring to what was said by the Archbishop of Canterbury, the Most Reverend George L. Carey, who spoke at the special Thanksgiving service held at St Paul's Cathedral to mark the Queen's Golden Jubilee. During the archbishop's sermon he referred to the faithfulness of Queen Elizabeth and her Christian service. He invoked the memory of the Queen Mother and Princess Margaret and said:

Of course, an abiding commitment to faithful service does not make life simple or easy. Indeed, there comes with it a recognition that none of us is immune from suffering and pain, whatever our role or place in the world. Even now, your Jubilee is tinged with sadness, in the absence of the Queen Mother and Princess Margaret, whom we remember today with affection and gratitude.

The Archbishop spoke of the Queen's public testimony of her faith. He said:

And from your elevated and noble position how greatly you have served! Yours was a vocation which you did not seek; it was a task to which you were anointed. It came to you at an age when few people are ready to assume burdens of responsibility, even far lighter ones. It was, as you have publicly acknowledged, required of you, not just by your people but by God. And your faith has helped to sustain you. You made that clear in your Millennium Christmas message, telling us directly, "The teachings of Christ and my own personal accountability before God provide a framework in which I try to live my life."

I believe that we can all give thanks to God for the example of Queen Elizabeth II on the occasion of her Golden Jubilee.

### CHARLES STURT UNIVERSITY

**The Hon. HENRY TSANG** [10.20 p.m.]: Tonight I pay tribute to Charles Sturt University, which was named after a great nineteenth century explorer who was among the first Europeans to cross the lands of this region. Sturt's expeditions took him along the Macquarie River, through the Macquarie Marshes to the Darling River by way of the Bogan and Castlereagh rivers. That pioneering spirit resulted in the mapping of the Murray River above its junction with the Murrumbidgee River. The university could not have been better named. Since its inception Charles Sturt University has displayed a pioneering spirit in providing academic excellence in tertiary education, research and community service throughout rural New South Wales and, importantly, throughout the Asian region.

Charles Sturt University has been a great ambassador for Australian education and know-how throughout the Asia-Pacific region. To that end it has excelled, and it has done so in a creative and dynamic manner. It was, therefore, a great honour for me to be conferred with the degree of doctor of the university on 18 May 2002. I thank the university for recognising my achievements as a refugee and, later, as a migrant. I thank Chancellor David Asimus and Vice-Chancellor Ian Goulter. My thanks go also to the Australian people for giving me a fair go. I was sent to Australia not just to acquire an education.

As a teenager I was told to seek a home for my family away from Hong Kong, which is where we fled from China as refugees at the time of the revolution. That is how I became one of the lucky ones to land on a friendly shore. That is how Australia became my home. But it was not an easy path. I suppose my story is similar to the stories of thousands of proud new Australians. I first travelled to Australia with a certificate of identity because I was a stateless person and a refugee. Upon my graduation in the 1960s I could not stay in Australia because of the white Australia policy. Reluctantly I migrated to America before again trying my luck in Australia. I now pride myself on being a good citizen of a young and dynamic country—Australia. I have never taken that for granted. I see it as a great privilege and not as a God-given right.

As a norm Australian people have shown great tolerance. Australia has become renowned for its generosity of spirit and openness. But government policy has not always reflected that generosity of spirit. It has often made it difficult for migrants and for refugees, in particular. Recently we seem to have forgotten that refugees do not choose to be refugees; often they are victims of cruel circumstances. They are people who have been driven from, and who are fleeing from, their homelands, often alone. At times the only alternative for asylum seekers is to pay the ultimate price with their lives. Last year our political landscape was characterised by abuse, which reflected some of the weaknesses inherent in the underprivileged for crass political gain. An election was fought and won on a great work of fiction about the most desperate people—refugees—all manufactured by a Federal Government that we now know knew much more than it cared to admit.

I raise this issue tonight because the losers in this process are not only those vulnerable people. We, the Australian public, were lied to and diminished as a nation. We must recognise that there are broader consequences to the attitudes that we adopt. They are not limited to the refugee issue. We are judged in this region and everywhere else by our actions. I doubt whether history will record this era as our finest moment. Being on the edge of the Asian region we must engage with this region. We have no choice in that matter. For Australia to prosper in the future, our economic integration with Asia is critical. With rapid changes occurring in global economic structures Asia presents the prospect of scale, markets and capital to sustain Australia and Australian-based companies. A failure to gain a foothold in an expanding Asian market will only result in global irrelevance. Fortunately for Charles Sturt University, it started early and it has established partnerships with several institutions in the Asia-Pacific region—with campuses in Hong Kong, Malaysia, Singapore, Sri Lanka, Cambodia, Taiwan and other places. I thank Australia for giving me a chance as a refugee. My plea now is that others who are less fortunate than us are also given a chance. I have no doubt that they will achieve more than I ever did.

## VICTORIA ROAD TRAFFIC CONGESTION

**The Hon. GREG PEARCE** [10.25 p.m.]: Tonight I speak about the Government's failure to properly manage traffic on Victoria Road to Ryde. Victoria Road, one of the most important traffic arteries in Sydney, is choking. The road is suffering from an increase in traffic volume not just because of the Government's failure to provide transport alternatives in Sydney but also because of the 36 per cent increase in the Sydney Harbour Bridge toll from January this year—another example of this Treasurer grabbing money at every opportunity from the people of New South Wales. Cars that are avoiding the Sydney Harbour Bridge because of the higher toll are streaming onto Victoria Road, causing a traffic bottleneck on a road that has already reached saturation point.

On one section of Victoria Road, about 500 metres from the northern end of the Gladesville bridge, there is a T3 transit lane during the morning peak hour. According to a study undertaken and commissioned by the *Sunday Telegraph* a couple of weeks ago, seven out of 10 Sydney motorists who used the transit lane during that morning peak hour on Victoria Road were breaking the law. For example, 73 per cent of cars that used the T3 lane had fewer than the required two passengers and, as a result, those cars were choking up the lane reserved for buses, taxis and eligible drivers. The problem, which is rife, has not been addressed by the Minister for Transport. The honourable member for Ryde, the Minister for Education and Training, has also been strangely silent on an issue that affects his electorate so significantly.

While the Minister for Transport and the honourable member for Ryde sit back and do nothing, traffic has continued to pile up on Victoria Road because motorists can ill afford to pay a higher toll on the Sydney Harbour Bridge and because this Government fails to provide transport alternatives. The Carr Government's greed to raise revenue has resulted in traffic chaos, with some motorists breaking the law and illegally using the T3 transit lanes to avoid spending their lives stuck in traffic. I regularly travel to and from the city to top Ryde and to West Ryde. I can attest to the worsening conditions on this major arterial road. The Liberal Party is concerned about the electorate of Ryde and about traffic and transport issues in this area of Sydney.

**The Hon. Ian Cohen:** I would not lose sleep over it.

**The Hon. GREG PEARCE:** I am losing sleep over it. While the Government is now enjoying an extra 80¢ from cars crossing the Sydney Harbour Bridge, the people of Ryde are faced with increasingly congested local roads and greater levels of air pollution. The honourable member for Ryde cannot seriously expect his constituents to believe that he cares for the needs of his electorate when time and again his Government blissfully makes decisions that are to the detriment of the community. When will the Government address this issue? Why has it shown such contempt for electors?

Seventy years after one of the nation's most outstanding examples of how to solve a traffic problem was built—the Sydney Harbour Bridge—we see it being shunned because of higher tolls. The Government should explain why this is happening and should genuinely examine an appropriate response. The people who are suffering are not those who can afford to pay \$3 every time they cross the bridge; rather it is the people of Ryde and inner Western Sydney who have to use clogged transport routes such as Victoria Road. This is a most important issue because many other routes are not able to provide the bus and other alternative transport arrangements that people require to travel throughout the city.

**The Hon. Amanda Fazio:** When did you last catch a bus?

**The Hon. GREG PEARCE:** I last caught a bus from Ryde a couple of weeks ago. I cannot catch them every day. The people in Ryde are crying out for representation in this Parliament. Apparently some fellow called Watson—or something like that—represents the Ryde electorate. Press in the local area are constantly asking what he is doing. Why is he not involved in the local community? Why is he not attending to schools, planning in top Ryde, and these transport issues that I have raised tonight? Why has he not attended to the hospital and ambulance services? When will the honourable member for Ryde challenge the Government's neglect of his electorate? When will he ask the Government to remove the increase in the Sydney Harbour Bridge toll? When will he stand up for the Ryde community?

**The Hon. Peter Primrose:** Point of order: The Hon. Greg Pearce is again flouting the standing orders of this place and showing himself to be totally bereft of principles.



**The PRESIDENT:** Order! Certainly Standing Order 81—

**The Hon. GREG PEARCE:** To the point of order: The Hon. Peter Primrose has not indicated which standing order he believes I have flouted, and he has not indicated in what respect I transgressed the standing order.

**The Hon. Peter Primrose:** As you sought to indicate, Madam President, the Hon. Greg Pearce has clearly transgressed Standing Order 81 in relation to reflecting on a member of Parliament. I did not choose to take the matter further because I did not wish to take up the honourable member's time, until he moved to the point where he was clearly flouting the standing order in an extremely arrogant fashion.

**The PRESIDENT:** Order! Standing Order 81 makes it clear that a member should not make an imputation or inference against another member of Parliament unless by way of substantive motion.

### WORLD ENVIRONMENT DAY

**The Hon. IAN COHEN** [10.31 p.m.]: I wish to acknowledge that today, 5 June, is World Environment Day. World Environment Day inspires many people. It is also a time of sadness because environments everywhere—both in Australia and overseas—are being destroyed at an unprecedented rate. It is sometimes difficult to imagine the wonders of the environment when one spends so much time in the cloistered and somewhat denatured environment of Parliament House. Throughout the world, many decisions that affect the environment are made by people who have very little understanding about what it is like to spend time in the natural environment. We move away from our natural roots and seek solace in organised religion. But for me, and many others, solace lies in the natural environment. World Environment Day gives us an opportunity to reflect on the wonders of nature—the spectacular and inspiring aspects of our forests and coastline. Australia has certainly been endowed with wondrous environments.

Some people believe that young people who try to defend the environment come to those issues with nothing but their ideals. But those young people are inspired by the environment. They fall in love with the environment and choose to work for it—something I did many years ago and continue to do today. The environment movement is a spiritual connection for many young people. It is growing in our western world and is becoming the one of the largest movements in the world since the labour movements at the turn of the last century. The Government has provided a huge amount of funding to save the black rhinoceros, for example, which is a species that is near extinction. I certainly support such a measure. However, a few weeks ago I was in the magnificent forests of Pine Creek, near Coffs Harbour. Within 10 minutes of walking into the forests I saw a koala and joey in the trees. This is the sort of thing that people have access to.

However, State Forests is cutting back those forests at the present time. A sign on the access road to the forests refers to koala-friendly forestry activities. That is the type of thing that is going on in our forests at the present time. It is a real tragedy. Recently I was in Barrengary State Forest, where I was able to see and measure a stump which was 2.2 metres in diameter. That is the type of tree that is still being destroyed by State Forests, although State Forests claims that it does not happen. It is a great tragedy that our forests are being destroyed in this way. We have a magnificent coastline. In some areas we can enjoy a vista that is unparalleled anywhere in the world. It is the responsibility of governments of all political persuasions to maintain our coastline without development. All people, both young and old, can go out into these environments and be inspired. It is a silent plea, from the forests of New South Wales to the coastline and the coral reefs to the north. With global warming, they are dying.

Children from all walks of life can go out into these environments. It is a basic pleasure of life. I recall that when I was a young boy scout I walked into the Blue Mountains with a group of friends and climbed down Govett's Leap, which was shrouded in a blanket of morning fog. It was like entering a wonderland. Such beauty stimulates the imagination and provides the creative force to allow people to grow up with a degree of balance. Stimulation and inspiration from spending time in the environment is a formula for a healthy society. I commend members to spend more time in the natural environment, and to think for a moment about the implications of World Environment Day as part of an acknowledgement of a movement towards saving the earth. Those who are in positions of power should take note that there is more to life than power, prestige and money. The environment is an extremely wondrous asset that we should all work hard to maintain.

### COMMUNITY TECHNOLOGY CENTRES PROGRAM

**The Hon. TONY KELLY** [10.36 p.m.]: I congratulate the Hon. Ian Cohen on his birthday, a date on which a couple of other anniversaries are celebrated. I congratulate the Carr Government on its ongoing commitment to country New South Wales, particularly its ongoing resolve to break down the divides that often

prejudice our smaller country communities. I wish to speak about the Carr Government's *CTC@NSW* Program. Community technology centres [CTCs] are key planks in the Carr Government's strategy to break down the digital divide. The CTC network links country New South Wales with trade, employment and training opportunities that, in days gone by, were simply beyond the reach of many rural communities. CTCs are fast becoming a vital resource for country New South Wales towns. They are helping country towns develop information technology infrastructure and services, placing them on an equal footing when facing the challenges of a globalised and information-driven economy.

New technologies, such as the Internet and videoconferencing, are opening up opportunities in areas such as e-business, online education, telecommuting and tourism promotion. The Government's \$15.45 million *CTC@NSW* network has already linked more than 55 member communities, with a further 40 planned for the near future. Smaller country communities—from Khancoban and Holbrook in the south, to Mullumbimby and Boggabilla near the Queensland border—are today benefiting from the opportunities opened up by CTCs and new technologies.

**The Hon. Dr Brian Pezzutti:** Are we are building a school at Boggabilla?

**The Hon. TONY KELLY:** We are building a community technology centre at Boggabilla.

**The Hon. Dr Brian Pezzutti:** And what has it got in it?

**The Hon. TONY KELLY:** It has e-commerce and computers, with which I am familiar. The most recent of these new technologies is in my home town of Wellington. Last week I had the pleasure of officially opening Wellington's community technology centre. I can report to the House that Wellington, along with other country towns, is quickly catching on to the whole new world of possibilities and opportunities opened up by CTCs. For example, the Wellington CTC has already run six successful information technology skills training courses, and will shortly be offering an email-is-easy course for beginners, as well as two e-commerce workshops for local businesses. Community technology centres are skilling up our rural communities, providing them with the skills, know-how and infrastructure needed to be active participants in the information economy.

The Carr Government is to be congratulated on backing its commitment to rural New South Wales with the programs in infrastructure needed to break down the digital divide. I understand that the Hon. Henry Tsang will shortly open the CTC at Cootamundra. In the past, too many country towns have been denied easy, affordable access to information technology, which is now, more than ever, an essential part of life. The Carr Government understands that as a society we cannot afford to see small rural towns left behind by the information economy. The CTC program is one of many responses by the Carr Government to ensure that no community is left behind. I congratulate the Treasurer on his continued support for country New South Wales, particularly the CTCs. As was quoted to me by the Coalition, he is one of the greatest Treasurers this State has ever had.

**Motion agreed to.**

**The House adjourned at 10.40 p.m.**

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