

# LEGISLATIVE COUNCIL

Tuesday 25 June 2002

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**The President (The Hon. Dr Meredith Burgmann)** took the chair at 2.30 p.m.

**The President** offered the Prayers.

**The PRESIDENT:** I acknowledge that we are meeting on Eora land.

## ASSENT TO BILLS

Assent to the following bills reported:

Compensation Court Repeal Bill  
 Crimes Amendment (Bushfires) Bill  
 Legal Profession Amendment (National Competition Policy Review) Bill  
 Financial Services Reform (Consequential Amendments) Bill  
 Justices of the Peace Bill  
 Licensing and Registration (Uniform Procedures) Bill  
 Liquor Amendment (Special Events Hotel Trading) Bill  
 Optometrists Bill  
 Local Government Amendment (Enforcement of Parking and Related Offences) Bill  
 Industrial Relations Amendment (Unfair Contracts) Bill  
 Pastoral and Agricultural Crimes Legislation Amendment Bill  
 Bail Amendment (Repeat Offenders) Bill

## RANDWICK-BOTANY INDUSTRIAL COMPLEX RISK ASSESSMENT

**Motion by Ms Lee Rhiannon agreed to:**

1. That, under Standing Order 18, there be laid on the table of the House and made public without restricted access no later than 5 pm, on Thursday 27 June 2002, all diagrams, figures, tables and appendices and any other missing parts of the 1983 internal working paper relating to risk assessment for the Randwick-Botany Industrial Complex, Port Botany and the surrounding residential area, tabled by the Deputy Premier and Minister for Planning in the Legislative Assembly on Tuesday 18 June 2002.
2. That an indexed list of all documents tabled under this resolution be prepared showing the date of creation of the document, a description of the document and the author of the document.
3. That anything required to be laid before the House by this resolution may be lodged with the Clerk of the House if the House is not sitting and is deemed for all purposes to have been presented to or laid before the House and published by authority of the House.
4. Where it is considered that a document required to be tabled under this order is considered to be privileged and should not be made public or tabled:
  - (a) a return is to be prepared and tabled showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege,
  - (b) the documents are to be delivered to the Clerk of the House by the date and time required in paragraph 1 and:
    - (i) made available only to Members of the Legislative Council, and
    - (ii) not published or copied without an order of the House.
5.
  - (1) Where any member of the House, by communication in writing to the Clerk, disputes the validity of a claim of privilege in relation to a particular document, the Clerk is authorised to release the disputed document to an independent legal arbiter, for evaluation and report within 5 days as to the validity of the claim.
  - (2) The independent legal arbiter is to be appointed by the President and must be a Queen's Counsel, a Senior Counsel or a retired Supreme Court Judge.
  - (3) A report from the independent arbiter is to be tabled with the Clerk of the House, and:
    - (i) made available only to Members of the Legislative Council,
    - (ii) not published or copied without an order of the House.

## TABLING OF PAPERS

**The Hon. Michael Costa** tabled, the following report:

Annual Reports (Statutory Bodies) Act—Report of Wine Grape Marketing Board for the year ended 31 December 2002.

**Ordered to be printed.**

## COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND THE POLICE INTEGRITY COMMISSION

### Report

**The Clerk** tabled, pursuant to the Ombudsman Act 1974, the report entitled "Sixth General Meeting with the Commissioner for the Police Integrity Commission", dated June 2002.

**Ordered to be printed.**

## PETITIONS

### Freedom of Religion

Petition praying that the House reject proposals to reform the Anti-Discrimination Act that would detract from the exercise of freedom of religion, received from **Reverend the Hon. Fred Nile**.

## BUSINESS OF THE HOUSE

### Withdrawal of Business

**Private Members' Business item No. 77 outside the Order of Precedence withdrawn by the Hon. Richard Jones.**

## DEATH OF THE HONOURABLE DOUGLAS FREDERICK MOPPETT, A FORMER MEMBER OF THE LEGISLATIVE COUNCIL

**The Hon. JENNIFER GARDINER** [2.40 p.m.]: I move:

- (1) That this House express and place on record its deep regret in the loss sustained to the State by the death on 18 June 2002 of the Hon. Douglas Frederick Moppett, a former member of this House.
- (2) That this resolution be communicated by the President to the family of the deceased.

Harry Truman said, "If you want a friend in Washington, get a dog." Many parliamentarians can relate to that saying, but I was very fortunate that I was in politics and that Doug was my friend. I would like to thank the Premier, who in the Legislative Assembly last week paid tribute to Doug and afforded the Leader of the New South Wales parliamentary National Party, the Hon. George Souris, the opportunity to do likewise. It was extremely unusual for such a tribute to a member of the Legislative Council to be made in that way in the other place. Helen Moppett was very moved by that occurrence.

Special thanks must go to all those parliamentarians, past and present, from four Houses of Parliament who attended the funeral service at St Barnabas' Church in Coonamble last Friday. Someone told me that there were well over 50 legislators in that large congregation. It was notable that there were at least six registered political parties represented at the service and one Independent. That speaks volumes for the high regard in which Doug was held by people across the political spectrum. The impromptu guard of honour formed by present and past parliamentarians at the conclusion of the service was very much appreciated by Doug's family, by members of the local community who were gathered there, and by all who travelled from far and wide to pay their last respects to a much-loved man.

Many of our electors do not understand just how much of our work in this House is undertaken on a multipartisan basis. So the wide political representation was of great interest to those assembled. Thanks go also to the Clerk of the Parliaments, Mr John Evans, the staff of the Legislative Council, its members and its

committees. Their presence was also very special. I addressed the congregation on Friday so I will not recapitulate, but there are a few additional points to be made about Doug's remarkable contribution to public life and the way he lived.

First, there are literally thousands of individuals and organisations that Doug helped in his parliamentary role. He was accessible and assiduous in looking after the State's electors who asked him for help. They could be neighbours at Quambone with problems with their telephone line, or they could be people he had never met. They were all deserving of his special attention. The Asthma Foundation has especially asked to be remembered today. Doug was awarded life membership of that foundation. He became involved not because of any direct experience with asthma but because a young man in his extended family died of an asthma attack. So in this Parliament he helped to raise the awareness of that disease. Also he was probably among the first parliamentarians to help raise the awareness of the difficulties of coeliacs—people who become sick if they consume products containing gluten.

There were many other organisations, especially those representing country people, which he supported. I mentioned some of them on Friday. Paul Keating, elements of whose passionate style of leadership Doug admired, once said that leadership is not about being nice; it is about being right and strong. Doug would decide what was right and he would give strong leadership. The campaign that he led against Bjelke-Petersen was a lot tougher than has so far been revealed, but that story will have to wait for another day. Doug's brand of loyalty was also legendary. For example, after the 1991 election, when Tony Windsor, with the great help of the disreputable editor of the *Northern Daily Leader*, won the seat of Tamworth, Doug Moppett had this to say to the party's supporters in the north of the State:

... to those loyal and clear-thinking people of Tamworth who stuck to the flag and have borne the heat and burden of the day, we will not forget you or abandon you or be beguiled by he who came even at the last hour and may appear to be hired for the same wage.

Those people were not forgotten and they were all there, crying and dancing with joy in Peel Street on the night of the by-election victory last December. Some drove from Tamworth to Coonamble on Friday, once again to say thanks to Doug for his loyalty to them when it was trendy to cast them aside. As we all know, Doug had a colourful turn of phrase. He was unimpressed by boring media releases churned out by public servants on behalf of Ministers or members. So he made up for them by churning out responses such as his response to the Hon. Richard Jones's attempt, when he was a Democrat, to remove the offence of swearing from the Summary Offences Act. The response, which was headed "Democrats' deception a damned disgrace", stated:

The vast majority of people, especially in country areas where the view is overwhelming, want to support the police in this difficult area of their work and are sick and tired of the apologists, sociologists and demonologists who try to warp our views.

The *Sydney Morning Herald* commented on that media release as follows:

Cussing has long been abolished in country areas.

From time to time—mainly I think because members of the Liberal Party envy the National Party's mass membership—the odd Liberal called for the National and Liberal parties to merge. Doug flicked off such suggestions at one time, saying that such proposals "could easily be mistaken for the launching of a new sheep dip and that would be about the extent of its relevance to the current political scene". One of Doug's most dramatic contributions to public debate—and displays of loyalty to his colleagues—came in April 1990 when he accused the Independent Commission Against Corruption [ICAC] of McCarthyism. The thin-skinned ICAC commissioner hauled Doug before the Supreme Court of New South Wales on a charge of contempt. That action did not stop Wal Murray from then describing the ICAC behaviour as more appropriate to the Spanish inquisition than to Australia. To this day, we in the National Party reckon that Doug and Wal were right. As is often the way, the Parliament caught up with those views in due course and some of the more naive elements in the ICAC legislation were amended.

In the week that Princess Diana died there was a car crash involving Doug in which, tragically, a Mrs Beth Fleming died. Doug was injured and hospitalised. There have been a number of fatal accidents involving National Party parliamentarians and staff, so when news came through about Doug's accident there was shock and an almost universal sigh, "There but for the grace of God go I." Nearly four months after that accident Doug was charged with a number of driving offences, including some very serious offences. He patiently waited to have his day in court and outwardly he did not miss a beat in performing his parliamentary, campaign and electoral duties. But there were truly dismaying delays in bringing the matter before the courts.

A trial by jury eventually proceeded—and that was two years ago. The trial was conducted during the National Party's annual general conference, which was held at Tweed Heads. The not guilty verdict was phoned through to me at the conference by Doug's eldest son, Warwick. The State chairman announced the news and throughout the Tweed Civic Centre delegates burst into tears—tears of relief for the fact that, as psychologists would say, there could at least be some closure for all concerned.

But that was not to be so. The lesser charges were not set down for resolution in the Local Court until last month. That was the best part of half a decade of waiting since that awful event at that crossroads in the middle of nowhere. Doug duly appeared before the magistrate a few weeks ago, confident that, one way or the other, this drawn-out ordeal would be resolved. But, to the contrary: the earlier delays in the court system were compounded. The prosecution said it was not able to deal with certain matters put before the court and, yet again, another date was set. I think it was 18 June 2002. That was the day that Doug died.

We all know that justice delayed is justice denied. As one eminent Labor Party member said to me last night, there is no doubt that the road accident had something to do with Doug's untimely demise. Of course, no-one can know that for sure, but the long wait would not have helped. After the acquittal in June 2000, people of goodwill hoped that Doug and his family could have a breather from such a tragedy. They did not know of the outstanding charges hanging over his head. But there was to be no respite.

Some months later, after the trial, Doug went to a country general practitioner for a check up, and he was advised to report to Royal Prince Alfred Hospital to undergo some tests to be supervised by a particular specialist. I do not have time to describe his appalling experience as a country patient referred to one of our teaching hospitals. Suffice to say that he developed pneumonia as an "unintended consequence" of what was meant to be a brief stay in that hospital, and he almost died.

As we all know, Doug was articulate and assertive. But he was no tantrum thrower, no puller of rank. He stayed in the place allotted to him in queues in both the hospital system and the justice system—a case study in what happens in both systems every day of the year, year after year. If we want an enduring tribute to our friend and colleague Doug Moppett, we could each rededicate ourselves to eliminating such disastrous delays in the State's hospital and justice systems.

Last night in the Senate, one of Doug's comrades-in-arms, Senator Ron Boswell, said that Doug's "lifetime of commitment to country New South Wales, the National Party and his family has not gone unappreciated by all who had the pleasure of being associated with him. Doug truly has been a great inspiration to many people". In extending his sympathy to Helen and Warwick and Peter, Senator Boswell said, "I know they take great comfort from the legacy of courage and strength that Doug has left behind." Madam President, fortunately I can confirm that that is true.

**The Hon. MICHAEL EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [2.51 p.m.]: I wish to associate myself and the Government with the condolence motion moved by the Hon. Jennifer Gardiner. Last Friday a huge crowd of people gathered in and around a very beautiful little country church to pay tribute to the life of a very, very good man, and I might take this opportunity to congratulate the Hon. Jennifer Gardiner on her superb eulogy.

Doug Moppett was twice a member of this House, from 1976 to 1978, when obviously still a very young man, and later from 1991 until a few days before his death last week. It goes without saying that he was a very widely respected member of this House. Indeed, I think that was always borne out by the fact that whenever a select committee was established by this House, whatever the subject matter of that select committee, the chairman, whoever it might have been, would always seek to have Doug Moppett as a member of the committee. Doug's parliamentary service was not the limit of his public service. He was a councillor on Coonamble Shire Council for many, many years, and for 20 years he was either the Vice-Chairman or Chairman of the New South Wales Country Party. He was Chairman of the New South Wales National Party from 1986 to 1991.

The period of his chairmanship was a pretty tumultuous time for the National Party. That was alluded to at the funeral service last week by the Deputy Prime Minister, John Anderson, and today by the Hon. Jennifer Gardiner. It was, of course, the time of the "Joh for Canberra" push. Doug was a believer in the two-sided Westminster system of parliamentary democracy. I have always thought that the primary responsibility of any member, particularly a parliamentary member, of one of the major political parties is to make sure that our party is always fit and ready to govern and always deserving of government. I think that was a task that Doug Moppett took on as Chairman of the National Party during the late 1980s with a great deal of vigour and determination and with a great deal of success.

Of course, currently around Australia there are Labor governments in every State and Territory jurisdiction. Very often when I meet ministerial colleagues from the other jurisdictions I ask them who are the two people most responsible for their being in government. They usually dredge up a couple of names, and I always correct them. I always say, "No, the two people actually responsible for your being in government are Cardinal Gilroy and Joe Cahill," because they were the two people who, at the time of the Labor Party split throughout Australia, held the Labor Party together in New South Wales. By holding the Labor Party together in New South Wales, they made it possible for the Labor Party to survive, which subsequently made possible the election of the Whitlam Government, the Hawke Government, the Keating Government, the Wran Government, the Unsworth Government, the Carr Government, the Beattie Government, the Bracks Government—I could go on to name all the other Labor governments around Australia.

Similarly, I would suggest that if anyone were to ask who was most responsible for the survival of the National Party in Australia, and for the election of the Howard Government—I am not necessarily saying this is a point in Doug's favour—one would have to say that Doug Moppett was one of those most responsible. If the Conservative parties had self-imploded in the 1980s with the "Joh for Canberra" push, there would not have been a Howard Government, and members opposite—who are naively optimistic about their prospects at the next election—would not even have that naive optimism. Very often, the real measure of the success of our endeavours in our public life is the work we do in making sure that our own party, to which we have not only an ideological and philosophical commitment but also a very strong emotional commitment, is fit for government.

I also recall the problems the Deputy Premier had with the Independent Commission Against Corruption in the early period of the Greiner Government. Whilst they were to the Labor Party's political advantage at the time, I must say that I admired the stand that Doug Moppett took as Chairman of the National Party on the matter. I thought not only that he was right at the time and that he was a man of courage but that the arguments he used on those occasions were very strong and persuasive.

Getting to know Doug after 1991—I did not know him before then—when he rejoined the Parliament, I realised why, as Chairman of the New South Wales National Party, he was able to save the nationals from the implosion that was taking place in other parts of the country. He was a man of keen intellect, a man who always possessed a very level head. He was not a populist in any sense, he was a true Conservative. He was never carried away by the latest populist fad, whether it be of a conservative kind or any other, and he certainly possessed a very, very steely determination.

George Souris spoke in the other place last week of Doug's facility with the English language. That was something we all certainly enjoyed. His use of words was always very, very precise. I think his speeches in this House were without peer. He seldom used a note—indeed, if he did, I never noticed it—and he certainly never read a speech. He would never have thought of reading a speech that was prepared by someone else. And he was always very, very well prepared. You could almost see in his face that he was thinking as he spoke, and that made him a true parliamentary debater. I think all of us would do well to try to emulate his speaking practices in this Chamber.

Doug always knew what he was talking about. He had always given it a lot of thought. Even in the heat of debate I do not think I can recall him saying anything that was ever personally hurtful to any member or to another person. Certainly he said things on occasions that I disagreed with, but I can never remember him saying anything that I thought was silly. With respect to all honourable members, I do not think that applies to any one of us, including me. I do not think any one of us can confidently say—and the longer we are here the more chance there is of it—that we have never said anything silly. I defy honourable members to recollect anything that Doug said that was silly.

Doug was an outstanding man. The National Party, Parliament, the State and the nation were all very well served by him. Certainly his family—his wife, Helen, and his sons, Warwick and Peter—should feel very proud of him. To them I extend my sincere condolences, the condolences of all members of the Government and, I am sure, all members of the House.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [3.00 p.m.]: I also add my support to the motion of condolence moved by our colleague the Hon. Jennifer Gardiner on the death of Doug Moppett. I am glad we are considering this condolence motion today rather than last Tuesday, because it gives us a chance to reflect on Doug's life rather than just lament his loss, as we would have then. I am reminded of that other great parliamentarian and great English statesman Edmund Burke, who once said that "our patience will achieve more than our force". Doug exemplified that statement. His patience and willingness to listen to any person on any subject was a true virtue. Burke must have known that Doug Moppett was to come.

A little over three weeks ago, on a Saturday morning, I visited Doug Moppett in the Royal Prince Alfred Hospital with the Leader of the National Party, George Souris, as did the Leader of the Government, Michael Egan. I had learnt the previous day that Doug's doctors had given him a bad prognosis, and he did not have long to live. Doug's demeanour on that day was stoic. He knew his time was finite. He knew that the cancer he had battled privately for the best part of 18 months, as the Hon. Jennifer Gardiner indicated, had finally got the better of him, but he remained strong and positive. George Souris and I felt inadequate and awkward approaching that meeting with Doug, yet as always he quickly put us at ease, and he was able, importantly, to dismiss us at the appropriate time with the minimum of fuss. His resolute manner reassured us as we left that day, knowing that we would not see him again. Following the announcement of his resignation from Parliament, Doug gave an interview on ABC radio. In that interview he said:

It was undifferentiated at first—

A very Moppett term—

but about five weeks ago, a CT scan showed a shadow on my liver, and that's had a profound effect on my capacity to work.

The doctors I have been consulting with have told me not to look too far ahead, so I'm sort of straightening things out.

Doug Moppett played a major role in the political landscape of New South Wales over almost 30 years. Doug was a life member of the New South Wales National Party, and, as the Treasurer indicated, served as vice-chairman of the party from 1971 to 1986, followed by a term as State chairman from 1986 to 1991. During that time his general secretary, who was to become a lifelong friend, was my colleague Jenny Gardiner. Doug was first elected to the Legislative Council in 1976. He sat in this Chamber for a short time until the reconstitution of the Legislative Council in 1978. In his maiden speech on 1 September 1976—more than a quarter of a century ago—Doug outlined his understanding of the work of the State upper House. In part he said:

I have come to realise that in their contribution to debates here, most honourable members speak as practical men and women who work in the community at various levels of responsibility and administration. To that extent I think that the contribution of any ordinary man or woman would be equally welcome.

Doug spoke of the contribution of the "ordinary" man to the legislative processes of this place, but it would be wrong for any person to describe Doug as just an ordinary man. His work over many years for the residents of the Western Division of the State, and for all communities in that region, no matter how small or large, is well known. Also in his maiden speech Doug stated:

My philosophy on politics is that people should not be inconvenienced by wishing to live in rural areas of this country; they should not be handicapped in their enjoyment of life any more than other members of the community.

That is a philosophy that Doug maintained throughout his working life—a working life as a grazier, as a local government representative, as a member of Parliament and as vice-chairman, not president, and chairman of a party that stands for people in rural and regional areas. It was during Doug's time as chairman, as the Treasurer indicated, that the National Party faced the now infamous Joh for Canberra push. I would like to reflect on Doug's work during that period. Prime Minister John Howard, in looking back on Doug's role in effectively freezing out the Joh for Canberra push, commented that in retrospect Doug deserved an Oscar for his role in combating Bjelke-Peterson. I am sure most National Party members would agree! At the eulogy, the Hon. Jennifer Gardiner quoted from the book *The End of Certainty* by Paul Kelly, who wrote:

From the start Moppett spoke for the NSW party in saying that coalition unity was essential, that outside pressure on the party would be resisted, that proper constitutional process would be followed in preselection, and that NSW would not tolerate Queensland disruption of the Federal Coalition. In the war that would engulf the National Party, the attack of the Queenslanders would be met with an equally determined defence in NSW. This would prove fundamental in breaking the Joh push.

Doug's tireless defence of the New South Wales position in this debilitating period secured the foundation for the party in New South Wales, and it was a solid foundation that was in place when I followed Doug into the chairman's position in 1991. Doug served on the Standing Committee on Social Issues in this Parliament for 11 years. Members will be well aware of the excellent work that committee has completed, and Doug played an invaluable role in those committee deliberations. He always used those committee inquiries to push the case of regional areas and to highlight the inequities he saw in his local community and in the western part of New South Wales as a whole. As the Premier stated in his considered and thoughtful ministerial statement last week, Doug was a true gentleman. The death of Doug Moppett marks the passing of one of the true defenders of parliamentary democracy in this State.

Doug was a stickler for parliamentary procedure, and his ability to speak to legislation without a single note was legendary, as the Treasurer noted. I recall Doug's contributions in last year's marathon debate on the water bill as an example of a parliamentarian who knew the nuts and bolts of what he was talking about. And Doug was able to turn this talent to any legislation or debate that came before the House. It was an honour to sit beside Doug Moppett as a National Party member of this place. Although we did not agree on every issue, I believe there was an inherent level of respect between us at every stage during our long working and personal relationships. To Helen, Peter and Warwick, I express my sincerest condolences. You have lost a true gentleman in your husband and father—a man who will be remembered fondly by all those who worked with or met him. The funeral service in Coonamble last week, which was attended by a large number of members and former members, both State and Federal, is testament to the regard in which Doug was held. I shall conclude with a quote from Doug's maiden speech in 1976. I believe it sums up Doug Moppett's long and valuable contributions to New South Wales politics. Doug said:

As a new member with but a finger's touch to the lamp that honourable members have held high over the years, may I assure the House that I shall strive unswervingly to uphold our system of universal justice and to do my utmost to safeguard the free, popular democracy that is our priceless heritage, of which, I am sure, we are custodians indeed.

**The Hon. JAN BURNSWOODS** [3.11 p.m.]: I pay tribute to Doug Moppett. In particular, in my position as Chair of the Standing Committee on Social Issues I lament the loss of Doug as the committee's Deputy-Chair. As Duncan Gay pointed out, Doug first joined the social issues committee in 1991, only two years after it was founded. He was our longest-serving member and played an enormous role in many of the inquiries we have carried out. When I had the honour of being appointed as Chair in 1998 I found Doug amazingly thoughtful and thought provoking, hardworking, honest and very sharp—all the kinds of things we have been saying about him. Doug's skill with words has been mentioned by many people. In addition to the skill we have talked about with his speeches in the House, we should also acknowledge his enormous skill in committee work.

As someone who went through drafts and redrafts of various social issues committee reports with Doug, I shared the delight—I guess that is the only word to use—in Doug's ability to say something cleverly but to capture the real meaning that we were after. I must admit that I can be something of a stickler with words but it was always a joy to discuss, and sometimes to argue about, these words with Doug, but he made such a contribution. When Jenny delivered the eulogy in Coonamble, she spoke about Doug's tiny writing and how hard it was sometimes to understand it. Certainly, that was the case when draft reports came back literally covered with Doug's tiny writing. I will miss the ability to discuss with Doug such arcane things as split infinitives, committee-ese, hanging participles, mixed metaphors and all the other things that Doug so properly objected to and about which many of us could learn a lot of lessons from him.

Doug's contributions to the social issues committee and other things have also been talked about, including his passion and compassion in dealing with issues. Jenny and Duncan mentioned the rural and regional perspective that Doug brought to so many issues. Even on inquiries that we thought were totally city based, we found that we were wrong. Doug could always find a rural and regional perspective. Very often when we thought he wanted the call because he wanted to quiz a witness about those sorts of issues, he would show instead an ability to cut to the heart of the issues and to deal with the philosophical questions in front of us. Indeed, sometimes Doug thought the rest of us got a bit carried away with philosophical questions. He developed a phrase. He would look at us over the top of his glasses would mildly say, "Are we trying to change the world again?"

The rest of us may have decided that what we did about parent education, early intervention or reform of the Department of Community Services would indeed change the world and our society with just a bit of effort here and a bit of money from the Treasurer. Doug would bring us back to earth and ask if we were sure that a Legislative Council committee, whose members were very busy and had a lot of things to do, could really change the world. We built our castles in the air but Doug brought us back to earth, and by doing so he contributed to many very good reports produced by the social issues committee. One example of Doug having trouble with the rest of the committee was in relation to the huge tome entitled "Hepatitis C: The Neglected Epidemic". Obviously, we had not yet learnt that people are more likely to read reports if they are a quarter of the length of that report, which Doug could have told us. We argued our way through 132 recommendations—and there were some real arguments.

We were particularly bogged down by the recommendation relating to tattooing in prisons. It did not matter what words we used, we could not agree. Doug kept saying to us, "If you put this recommendation in, the *Daily Telegraph* will ignore the whole report and will only report on tattooing in prisons." So we softened the

recommendation, we changed it and we fiddled around with it, but we included it. Of course, the only mention of the entire report in the *Daily Telegraph* was about tattooing in prisons, which was totally disowned and ruled out by both the Premier and the then Leader of the Opposition. Nevertheless, the report has produced a great deal of good, like so many of the reports produced by the social issues committee, although the *Daily Telegraph* may have ignored the rest of the report. Perhaps the report may have done more good if we had known enough then to listen to Doug.

The social issues committee has two tests, particularly in the secretariat. We now use Doug's phrase, "Are you changing the world again?" as a test of the realism that we are bringing to our inquiries and reports. We have another test—it is perhaps a more recent test—and that is the phrase "What would Doug say?" It is a great tribute to Doug that I am confident we will continue to ask, "What would Doug say?" The committee is currently finalising a report on disabilities, an inquiry into which Doug put his heart and soul. That inquiry has been going on for nearly three years, although the committee has issued two reports. Doug could not have been more helpful on that issue. Indeed, when we were considering the problems of families with a person with disabilities, he said, "But what about the extra problems they have, like health, when they are a long way out of town? It is a huge problem."

We talked about that just a year ago, when Doug organised a trip for our committee to Dubbo, Trangie, Coonamble and Quambone. In the church in Coonamble last Friday we thought about how, in visiting those places, Doug helped to give members of the committee a sense of the types of problems people in those places face in so many of the matters we deal with. Also, during that trip we had a real sense of the respect, and indeed the love, shown to him by the people in his part of the world and in north-western New South Wales. On behalf of the committee and its staff, and its former members and staff, I pay tribute to Doug Moppett.

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [3.18 p.m.]: I shall follow on from the comments of our friends and colleagues on the condolence motion in memory of the Hon. Doug Moppett. Today we pay our respects to his memory and the contribution he made to this House and to the people of New South Wales. First, I pass on my sincere condolences to Helen, Peter and Warwick. I assure them that our prayers and thoughts are with them during this time. The speed with which Doug succumbed to his illness surprised many members and staff of the Parliament. Just a few weeks ago Doug was strolling along the corridors in his usual bright way greeting everyone he came across with his trademark smile. Few of us were aware of the treatment and the associated discomfort that Doug had chosen to keep private. I can still see him on a Wednesday morning walking around the eleventh floor in his terribly undersized white shorts and white T-shirt after his morning tennis at Nielsen Park. I never had the heart to tell him that he should have worn something else.

Doug joined this House in 1976, following his preselection to fill a casual vacancy, and served during his first term until 1978. Rejoining this House in 1991, he served until less than two weeks ago, when he tendered his resignation to the Governor. However, Doug's appointment to the Legislative Council was not his only contribution to informed public debate in New South Wales, as was pointed out by the Premier and the Deputy Leader of the Opposition a short time ago. Doug also served for a number of years on Coonamble Shire Council, including a short term as deputy president. In contributions to parliamentary debate Doug often spoke of his home town, Quambone, and its nearby "big smoke" of Coonamble, and gave a wonderful and personal perspective on the difficulties that the isolation of country life places on regional communities. He brought to the Parliament that wealth of knowledge.

Indeed, his first question upon his return to this House in 1991 reflected this perspective. The question related to electricity supplies to the Western Division and included a commitment from the then Coalition Government to commence work on the supply of electricity to residents in the Central Darling shire and the unincorporated area of far western New South Wales. Doug continued to raise issues of concern to the Western and Central Western divisions throughout his parliamentary career. Within days of my arrival in this House in 1996, Doug spoke in debate on the kingfish industry. As has been said many times in the past week or so, Doug had an amazing way with words. On this occasion, as a new member with little experience of parliamentary procedure, I remember listening to Doug as he spoke in response to the many reasoned arguments relating to the kingfish industry. His speech began:

I am disappointed but undeterred by the Government's intransigence and deplorable obduracy on this matter ...

The Minister spoke unbuttressed by any of his colleagues attempting to defend the indefensible in this debate. The crisis in the fishing industry is very real and for the people involved in kingfish trapping it is extremely acute. There can be no doubt about the devastating effect that the Minister's decision has on their lives. The Government has dealt them a savage and reprehensible



blow. The Minister talked about the use of hysteria to whip up a storm. He called for calm in the industry. I say to the Minister and his colleague in another place that if the political winds continue to blow against the underlying currents there are bound to be rough seas and stormy times ahead for their administration if they continue to ignore what is being said by responsible members of the industry.

In my years in the court system I had heard many words used in many creative ways, but I must say Doug was something special. That speech, on such a simple issue as the kingfish industry, highlighted to me that Doug Moppett was committed to empowering individuals in our community with the quest for knowledge and the ability to look beyond the obvious. It showed that no matter what the topic and no matter what varying positions are held within this House, or indeed the community, there are always opportunities to learn and review our opinions on the many issues we face each day.

During his time in this House he performed an outstanding role as a member of numerous committees, in particular the Select Committee on Hospital Waiting Lists. Doug brought with him the experience of living and working in a rural community, raising a family and experiencing the limits on health services provided in country towns. Indeed health services, particularly in rural areas, formed an integral part of his maiden speech to this House in 1976, and many other addresses over past years.

In what we were not aware would be Doug's final speech to this House he did an outstanding job in supporting my motion of no confidence in one of the members opposite. The Leader of the National Party in the other place last week quoted a section from this speech—a speech that was peppered with the Doug style we have come to know. The speech contained a paragraph which I think provides a wonderful conclusion to Doug's oratory in parliamentary debate:

First of all, we saw a Government in malaise. Its members were dispirited and they did not know which way to turn. Suddenly a glimmer of light was held out to them. It may have been simply a reflection from that shining scalp, but it was held out to be some glorious apparition of a golden shining helmet, as of some latter-day Achilles rallying the troops to assault the forces of evil in the towers of Priam and to defeat Hector and Paris. In actual fact, as we have come to see, this apparition turned out to be a fire ship adrift amongst the fleet of the Australian Labor Party, colliding from time to time with this area and with that, always dangerous in any contact.

The difference between my contribution and that of the Hon. Doug Moppett on that day was that I had to refer to notes and, as the Treasurer rightly pointed out, the Hon. Doug Moppett did not. On behalf of members of the Liberal Party I pay tribute to Doug. We also pass on our heartfelt sorrow and pay our respects to Helen, Warwick and Peter.

**The Hon. RICK COLLESS** [3.26 p.m.]: I support my colleague the Hon. Jennifer Gardiner today in paying tribute to Doug Moppett. I thought it would be appropriate to present my speech from the podium without notes, not because I could ever hope to emulate the oratory skills of the Hon. Doug Moppett, but more as a mark of respect. I aspire to be able to speak as well as Doug, from the podium without notes. I first met Doug Moppett at a National Party conference soon after I joined the National Party in 1988. It was just after the Greiner-Murray win of that year. Doug was chairman of the party at that time. He stepped up to the podium to deliver the chairman's address. It was one of the most amazing speeches I have ever heard in my life. He spoke for perhaps an hour about the lead-up to the election, about "Joh for P.M.", and about a whole range of issues that led to the change of Government in 1988. Doug Moppett's address that day was humorous and showed a great insight and understanding of the political process. As somebody just becoming involved in politics, his speech certainly made an indelible impression upon my mind. It was a speech I will never forget.

I enjoyed Doug's company for many years. When I entered this place Doug was my mentor and somebody to whom I turned for help and advice on parliamentary procedures. One of the first speeches I heard Doug give in this place was in debate on the water bill, to which the Deputy Leader of the Opposition referred. On that day I had been given the job of assisting Doug with the passage of the bill in this place. I was anticipating how I would perform in my first big job in this place, and it was a very interesting time for me. In preparing my speech on the water bill I can recall I had a stack of notes and pages that were flagged. I turned around to Doug, who was sitting with his arms folded, knowing full well that the debate was about to commence. I asked him, "Are you going to speak on this?" He said, "Yes". Doug commenced his speech at about 5.00 p.m. and spoke until dinner time at 6.30 p.m. from this very podium, without a single note. He provided a tremendous insight into the issues surrounding the water debate at the time.

I have taken the opportunity to read the speech made by Doug on that occasion. His address was not only structured; it was very clear. Again, it was insightful. It revealed a great knowledge and understanding of the issues, particularly as they affected the people of the west. It is sad that members who participated in the debate on the Western Lands Amendment Bill last week were unable to have the insight that the Hon. Doug

Moppett no doubt would have been able to impart to the House on that subject matter. I extend to Helen, Peter and Warwick our sincerest condolences. This mortal earth is a much better place for the Hon. Doug Moppett having walked and spoken upon it.

**The PRESIDENT:** Order! With the agreement of the House, I propose to continue the motion of condolence.

**Reverend the Hon. FRED NILE** [3.31 p.m.]: I join other honourable members in supporting the condolence motion moved by the Hon. Jennifer Gardiner as a tribute to the Hon. Doug Moppett. I had the privilege, along with many other members of this House and the other place, to attend the funeral of Doug Moppett. A very large crowd of friends, supporters and community members packed the grounds of the church.

I served with Doug in the upper House for 11 years from 1991. He usually sat to my right in this Chamber, and I would often slip across to seek his advice on various matters. He was always a great help to me. As other members have said, he was a great asset to the various committees that he served, particularly the Standing Committee on Social Issues. I served on that committee with Doug from 1991 to 1995. It dealt with some controversial issues, including adoption, medically acquired HIV-AIDS and so on. Doug always played a very important role on those committees.

One thing noticeable about Doug was his unpredictability. One could not gauge his view just because he was from the country or a member of the National Party. Doug always weighed up the various factors and gave great consideration to them before coming to a decision. On many of the issues, his decision was correct. Other honourable members have spoken about Doug's fluency with words. He was a trivia wordsmith. Perhaps he was born too late: his speech-making abilities and his way with words were befitting a member of the House of Commons in the previous century.

This Parliament needs people like Doug—people who deeply respect the conventions of the Parliament, understand its history and truly are model members of the Legislative Council. He certainly demonstrated that in the years that he served this place. Doug was a practising Christian, and we know that he is now in the presence of the Lord Jesus Christ, whom he served faithfully. Our prayers and condolences go to his wife, Helen, and to his two sons, Peter and Warwick.

**The Hon. HELEN SHAM-HO** [3.32 p.m.]: I support this condolence motion moved by the Hon. Jennifer Gardiner. I missed the opportunity to attend Doug Moppett's funeral, and I am very sorry about that. But I would not miss this opportunity to say a few sincere words about Doug Moppett, and pay my respects and extend condolences to his family. Doug's passing will be a sad loss to his family, to the Parliament and to the whole community. Members so far have spoken mainly about the public side of Doug—about his life in Parliament and what he did for his community. I will say just a little about what I know of his private life. We all know that there are no great friends in politics.

Doug was not a personal friend of mine, but when I was down and isolated Doug was one of the very few people who offered support in his very quiet way. His support for other people was very strengthening. I put on record that I appreciated his support when I was down. So when Doug was involved in a fatal accident in his hometown, in my own way I tried my best to return that support. Doug and I served together on the Standing Committee on Social Issues and the Joint Select Committee on Fixed Term Parliaments. I got to know Doug and Helen fairly well. Helen and I share the same name, and this led to a private link between the Moppett family and me that I will always remember. God bless his family.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [3.35 p.m.]: I wish to support the motion of condolence on the passing of the Hon. Doug Moppett. Of course, Doug was an unfailing gentleman. He had great courage and integrity. My predecessor in this House, Elisabeth Kirkby, called me and asked me to express her condolences in this place at this time, as she had worked with Doug for many years and had a great deal of time for him and the things he stood for.

Doug was renowned as a wonderful orator and argued persuasively in this Chamber and as a member of the Standing Committee on Social Issues, on which both I and the Hon. Jan Burnswoods served. I endorse everything said by the honourable member. Doug Moppett had a keen intellect and a very level head. He was incisive and put issues together very clearly when others who were perhaps trying to change the world were getting things out of proportion. I remember a recent committee discussion about regulating what could be put on the Internet. Doug summed it up by saying, "It's not much use regulating. It's like shutting the window after the wall has blown down." That seemed to summarise what some were trying to do about regulating the Internet in New South Wales.

Doug was a great wordsmith. In this House he spoke in very measured tones. He sometimes paused as he chose words carefully. Those who watched a little more closely would see members sitting at this table discreetly reach for the dictionary, flick their way through it and then leave it there for the next person to quietly reach across and also flick through. In breaks, other members would leave their seats to have a discreet look at the dictionary too. Doug did much for our vocabularies.

He was a conservative and private man. Of course, he was from a conservative party. Sometimes, on social issues, members who fancied themselves as being fairly progressive and going to do great things thought Doug would take a relatively conservative view, although within his own peer group he was probably considered fairly progressive, particularly on social issues. He would flag the clauses that were a difficulty, as he put it, and rewrite them. Then it would come down to, "Yes, I can live with it, except for this word." He would then use a seemingly endless stream of words and phrases—as if straight from *Roger's Thesaurus*—to find a word that was radical enough or progressive enough for those of us who wanted to change the world, yet was sensible and sufficiently conservative to meet the sensitivities of those among his constituency on whose behalf he would sign off.

Doug was meticulous in his approach to committee reports, which were changed phrase by phrase, word by word, and clause by clause. I think the reports were a lot better for that. I just wish the Government would take more notice of some of them. I think it took more notice of reports due to the quality of the work that Doug had done on them. On social issues, of course, it was not a question of, "Will we go to the country?" It was, "Where will we go to in the country, and what will we do?" It was absolutely vital that his constituency—the rural people—were given equal consideration and that the rural issues he cared about were dealt with. No inquiry could have been completed without the committee travelling to the country to investigate. I was very moved when I went to the funeral and again met his wife and, for the first time, his sons, Peter and Warwick. I wish them all strength. I conclude by quoting from a verse from Shakespeare that fits Doug very well:

His life was gentle, and the elements  
So mix'd in him that Nature might stand up  
And say to all the world,  
"This was a man!"

**The Hon. IAN COHEN** [3.40 p.m.]: On behalf of the Greens, I pay respect to the Hon. Doug Moppett and I am proud to be associated with this condolence motion. With many other members of Parliament—members of his own party, the Government and a number of crossbenchers—I was privileged to attend his funeral service at Coonamble. While there, I was moved by the warmth and friendship that emanated from the memory of Doug Moppett. I recall asking myself over and over what was it about Doug Moppett that he could deliver a speech which to me, as a Green, was somewhat disagreeable in such an agreeable and inspiring manner. Listening to Doug was an adventure into the realm of the wordsmith, as many others have already mentioned. He was an orator of the old school, decisive and erudite, and he delivered his speeches without the assistance of notes. My colleague Lee Rhiannon has asked me to add her condolences:

Doug was an easy person to converse with. He had dignity and courtesy and, most importantly, he had the measure of this place, the Parliament, rather than the other way round.

I would like to draw members' attention to a moving and informative article about Doug in the most recent edition of the *Sunday Telegraph*. Mr Nathan Vass wrote with great insight into Doug's achievements, and how he has a place in recent Australian history because of his insightful work in the 1980s.

We both urge honourable members to read that article. Lee Rhiannon and I extend condolences to Doug's family, his wife, Helen, and his sons, Peter and Warwick, his friends and his work colleagues in the National Party. It has been an honour to serve and debate with Doug Moppett and, in particular, to communicate with him in this House.

**The Hon. RICHARD JONES** [3.42 p.m.]: I join with my fellow members in supporting the condolence motion moved by the Hon. Jennifer Gardiner. It is an indication of our fondness for Doug that so many honourable members attended his funeral last Friday. Many honourable members went to Coonamble—as many as were able to, I suspect. All sorts of people were there, from the most extremes of views, as one might say, because we all felt very fond of Doug and had great admiration for him.

Despite many of us being on the other side of the fence, as it were, there were many things that we shared with him. His oratory skills were quite obvious. It is my view that a book of Doug's speeches should be produced and handed to new members elected to this House next year to show them how to prepare and deliver their speeches. As other honourable members have said, there were many times when Doug used words the meanings of which we simply did not know. In the email sent by the Hon. John Ryan, there were words that I have never ever heard of! I still have not looked them up. I do not know where they came from.

When I was speaking to Doug's sons, Warwick and Peter, they told me that Doug did an awful lot of work. He was a very erudite man and he read many books. When he made speeches in this House they were extremely well prepared. He was an amazing man and we will certainly miss him a lot. In my experience there was only one word he did not know and that is the word "saxicolous", which caught him out. We will miss his rapier-like wit and the wonderful words he used. Perhaps we should begin looking up our dictionaries as he did. I wish the very best to Helen, Warwick and Peter. It was a great privilege to know Doug.

**The Hon. DAVID OLDFIELD** [3.44 p.m.]: It was not my intention to join in speaking to this motion. So much has been said about Doug, and as I would have been almost the only crossbencher not to have said anything, I did not wish that to be misinterpreted. I am not a person who pretends to have been a friend of Doug Moppett, and I know that he has many friends in this Chamber. I say that because I did not know him long enough or well enough to have thought that he would have counted me as a friend. I knew him simply through this place and respected the way he carried out the functions that we shared as members of this place. I am a person who is very much impacted by the passing of people I know—much more I must admit, unfortunately very much so, than the passing of a great many people whom I do not know.

While I accept that a death anywhere is a tragedy for somebody, I was quite affected when we came back to this place after the recent recess being told at a meeting in the Treasurer's office that Doug Moppett would not be coming back. To me, that was like a death sentence I suppose, and I was quite affected by that. I took the time, not that it was any great impost, to call Doug and speak to him. That was a strange sort of experience because in doing that I felt the need to actually say something to him but at the same time I was aware that I was virtually ringing to say goodbye. That was certainly difficult for me, but what I must say is that I do not think it was at all difficult for him.

I remember what the Deputy Leader of the Opposition said about his departure from the hospital and clearly how well Doug had dealt with it—perhaps better than the Deputy Leader of the Opposition and Leader of the National Party had dealt with it. I certainly felt the same way. In the few moments of conversation that I had with Doug just a couple of weeks ago when he answered the phone in his own home and was clearly very aware of what was taking place, he simply said to me that the doctor had suggested to him that he put his affairs in order and that he should think in terms of weeks rather than months. Clearly right to the very end, Doug was extremely brave and very cognisant of everything that was taking place. I am sorry that he was not here long enough and I was not here long enough to get to know him better and perhaps have become his friend at some stage.

*Members and officers of the House stood in their places.*

**Motion agreed to.**

**Pursuant to resolution business interrupted for questions.**

### **QUESTIONS WITHOUT NOTICE**

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#### **KINGS CROSS MEDICALLY SUPERVISED INJECTING ROOM**

**The Hon. MICHAEL GALLACHER:** My question without notice is to the Special Minister of State. Is it a fact that he has confirmed that the Kings Cross injecting room is operating as a de facto needle exchange program with almost 18,000 needles and syringes supplied for people to take away from the facility? How many needles have been returned to the facility? Does the provision of needles and syringes to drug users on a take-away basis at the Kings Cross facility simply encourage unsupervised drug use in the Kings Cross area? How does this needle exchange program fit with the original intent of the facility?

**The Hon. JOHN DELLA BOSCA:** I thank the honourable member for his question. One of the four key aims of the medically supervised injecting centre trial is to help to reduce the spread of diseases such as HIV and hepatitis C. This aim is consistent with the needle and syringe program. The centre provides a needle and syringe service to its registered clients and provides them with clean needles and syringes for use after they have used the injecting centre. The medically supervised injecting centre is not a primary needle and syringe program provider. The 12-month progress report of the evaluation committee notes that the medically supervised injecting centre accounts for about 1.2 per cent of the total number of needles and syringes dispensed

in the South Eastern Sydney Area Health Service. I will repeat that because I think it is an important statistic for honourable members to bear in mind when considering this matter. The medically supervised injecting centre trial facility accounts for 1.2 per cent of the total volume of needles and syringes dispensed in the South Eastern Sydney Area Health Service.

This service is offered because the medically supervised injecting centre trial does not operate 24 hours a day, seven days a week. The medically supervised injecting centre does not operate on a 24-hour basis for a number of reasons. Primarily, there are important occupational health and safety issues associated with operating for extended periods of time. These relate to the conditions under which staff can be expected to work. Obviously, it is stressful work and staff must have appropriate breaks. There are also issues concerning the injecting behaviours of drug users. I am advised that the hours of the centre were determined in order to capture the majority of high-risk injecting episodes—that is, when drug users are most likely to inject alone or in public places.

I am also advised that the centre continues to monitor the appropriateness of opening hours. I understand that most injecting centres, or similar facilities overseas, operate for approximately eight hours a day. I remind honourable members of the importance of the needle and syringe program in the broader health context. The honourable member who asked me this question should bear in mind that the needle and syringe program is a small program in the context of the services provided by the South Eastern Sydney Area Health Service, or area health services in the Sydney metropolitan area or the rest of New South Wales. I am sure that the honourable member and all other honourable members are aware that the needle and syringe program, a Commonwealth program, is sponsored and almost entirely funded by the Commonwealth health sector.

The needle and syringe program has been one of the most effective tools in preventing the spread of hepatitis C and HIV among injecting drug users, their families and the wider community. In spite of a range of issues that might have given Australia quite a high-risk profile in relation to HIV-AIDS and hepatitis C, the spread of HIV-AIDS and hepatitis C has been much lower in Australia than was anticipated. That has been a feature in equivalent jurisdictions in North America, Europe and Asia. Australia has one of the lowest HIV infection rates—and that includes the lowest rate of injecting drug users—in the world. I am advised that the increase in the number of needles dispensed at the centre generally reflects the increase in the number of visits to the centre.

From the beginning of 2001 we saw a dramatic reduction in the supply of heroin. I am advised that that was accompanied by an equally marked reduction in overdose deaths, ambulance calls and suspected overdoses. The number of needles distributed from needle and syringe program outlets in the South Eastern Sydney Area Health Service decreased by 27 per cent in the December 2000 quarter to the corresponding period in 2001. That was the first reduction of any size since the program commenced in 1988.

#### FEDERAL INDUSTRIAL RELATIONS LEGISLATION

**The Hon. RON DYER:** I ask the Minister for Industrial Relations a question without notice. Will the Minister inform the House of the Federal Government's efforts to restrict the rights of unions and their members to undertake legitimate industrial action?

**The Hon. JOHN DELLA BOSCA:** Tony Abbott wants to introduce legislation that removes the right of unions to undertake legally sanctioned strike activity by imposing cooling off periods. The explanatory notes that accompany Mr Abbott's bill state that the Federal Government wants to make it harder for unions to have access to collective bargaining. Moreover, even when unions do have such access and they exercise their right to strike, if the employer refuses to negotiate, the Federal Government wants to give the commission the power to take that right away. Mr Abbott, in support of his bill, often cites the practices of the "ultra-militant AMWU" and the "bully-boy tactics used by the CFMEU." However, an assessment of many disputes that involve these unions demonstrates that there is justifiable cause for the essence of the disputes which often escalate due to Federal industrial relations laws rather than simply in spite of them.

Disputes that occurred at Maintrain and Tristar were principally concerned with the issue of employee entitlements. Those disputes were set against the backdrop of three highly corporate collapses—Ansett, One.Tel and HIH Insurance. Of course, employee entitlements would not be the subject matter of industrial dispute had the Federal Government not continued to prevaricate on the obligation that employers should pay their way and guarantee the full entitlements of all their workers. The latest scheme, the General Employee Entitlements and Redundancy Scheme, continues to follow a predictable line. First, workers will not get their full entitlements; and, second, taxpayers will be forced to foot the bill for failed businesses.

Let us examine another recent industrial dispute involving the Australian Manufacturing Workers Union [AMWU] which occurred at BHP Western Port in Victoria. That dispute centred on key principles of outsourcing, casuals, contractors and the planned review of the maintenance operations which, understandably, represented significant employment security concerns for workers employed at the plant. Whilst that dispute was the subject of an agreement, it did not take place until employees were on strike for three weeks; there was a threat to car manufacturing and its thousands of jobs across the nation; the company threatened to take contempt proceedings against its employees; and a man was taken to hospital with injuries sustained at the picket line outside the firm.

The subject matter of that dispute was similar, if not identical, to the dispute that occurred at BHP Port Kembla. That dispute was handled by the Industrial Relations Commission of New South Wales after a ministerial reference, resulting in minimal disputation—not one full day of the plant's activity was lost—wage increases and suitable job security agreements for steel workers, and it delivered to BHP an all-important continuity of supply. The comparison between those two disputes speaks for itself. The construction industry and the activities of the CFMEU have focused on a number of issues that fall squarely upon the Federal Government to resolve.

The phenomenon of phoenix companies, whilst not isolated to the construction industry, represents a clear threat to building employees and, for that matter, subcontractors. Two dollar companies will often close their doors and leave building workers and other contractors with nothing in their pockets for days, weeks and sometimes months. Despite a considerable number of calls to the Federal Government to change Corporation Law, which affects phoenix company operations, nothing has been forthcoming. Australian workers in the building and construction industry are also under increasing threat from some unscrupulous employers exploiting illegal workers and backpackers and driving legitimate companies out of business.

There is one common thread in the disputes that occurred at the Hindu Temple and the Gazebo Hotel at Elizabeth Bay. The policies of the Federal Government and the industrial relations framework in the Federal jurisdiction have failed to deliver a co-operative industrial approach. There is no respect for the umpire and, of course, disputes and productivity are threatened.

### TALLAWARRA POWER STATION

**The Hon. DUNCAN GAY:** My question without notice is directed to the Treasurer. Is the sale of the former Tallawarra power station at Lake Illawarra yet another breach of the Government's election policy to keep the State's electricity assets in public ownership? Why is this Government divesting itself of an asset that, on the admission of the Premier, is an attractive proposition for redevelopment as a gas-fired power station?

**The Hon. MICHAEL EGAN:** Honourable members might be aware that the Tallawarra power station was closed down under the Greiner Government when—and I will not use the word "notorious"—the famous Mr Neil Pickard was Minister for Energy. It was a working power station until the early 1990s or the late 1980s. It was closed down by the Electricity Commission of New South Wales when Mr Pickard was Minister for Energy.

*[Interruption]*

At some stage in the future New South Wales will need some additional peaking capacity. That, no doubt, will come from a gas-fired power station. We anticipate that in about round 2005-06 there will need to be some new peaking capacity for the New South Wales electricity system. Obviously, we operate in a competitive electricity market. We will seek expressions of interest from any company, whether it is a private company or, for that matter, a publicly owned company—existing generators—to provide extra peaking capacity.

**The Hon. Duncan Gay:** Is it a breach of your election policy?

**The Hon. MICHAEL EGAN:** Of course not.

**The Hon. Duncan Gay:** Of course it is!

**The Hon. MICHAEL EGAN:** The Deputy Leader of the Opposition says, "Of course it is!" I am glad Mr Wilson is in the gallery, because I will take him to task too.

**The Hon. Duncan Gay:** Under parliamentary privilege.

**The Hon. MICHAEL EGAN:** No, not at all; I will go outside if you like. A few weeks ago the Opposition issued a press release about its policy of no more privatisation in electricity. Honourable members will recall that during the last election campaign the Coalition parties promised to privatise electricity, with a handout of \$1,000. They called a press conference and issued a press release saying they would not privatise any of the State's electricity assets. At the bottom of the press release they listed what the electricity assets were. Pacific Power International was not included as an electricity asset, and nor was the Tallawarra Power Station.

#### **POLICE RECRUITMENT TELEVISION ADVERTISEMENTS**

**The Hon. Dr PETER WONG:** My question is directed to the Minister for Police and relates to the current NSW Police recruitment television commercial which, in one scene, shows a youth of Arabic appearance being subjected to a knife search by an Anglo-Celtic policeman and subsequently arrested for knife possession. Will the Minister inform the House whether he sought advice from the Police Minister's Advisory Council [PMAC] and the Police and Ethnic Communities Advisory Council [PECAC] before the launch of the commercial? If not, why not? Will the Minister also advise the House whether several members of the PMAC group have raised with him concerns about the commercial since its airing? Will the Minister advise the House of the nature of the concerns of the members of the PMAC group and how he intends to address those concerns?

**The Hon. MICHAEL COSTA:** The Hon. Dr Peter Wong has already asked me a similar question. I do not understand the difference between this question and his previous question. I can advise the House that the advertisements are being well received. They involve actual police officers, and they attempt to depict real-life scenes in relation to the ethnic community. I have made the point on a previous occasion that we have a focused campaign to deal with the ethnic community through the ethnic press, and other strategies in those areas. In relation to the PMAC, at this stage I do not know whether anyone has raised any issues with me about that matter, but if they have I would be happy to have a look at the correspondence on the matter and report back to the House.

#### **ENTERPRISE AGREEMENTS UNION BARGAINING FEES**

**The Hon. JAN BURNSWOODS:** My question without notice is directed to the Special Minister of State, and Minister for Industrial Relations. Will the Minister inform the House of the Federal Court decision relating to bargaining fee clauses in enterprise agreements?

**The Hon. JOHN DELLA BOSCA:** It was with great interest that I noted the decision of the Full Bench of the Federal Court last Friday. The decision upholds that enterprise agreements include clauses to provide for payment of bargaining fees to unions by non-union members. In essence, the Federal Court has confirmed the laws of the land applying to industrial relations, as originally devised by the Howard Government.

That view is that each party in the workplace should be free to negotiate enterprise outcomes that they are able to agree upon without intervention by a third party. Yet, when the Federal Government upholds Tony Abbott's Australian Industrial Relations Commission in allowing unions to receive a bargaining fee for negotiating wage increases, what does he do? He cries foul and talks of appealing to the High Court. Not only that, but he also wants to reintroduce new, prohibitive legislation that outlaws bargaining fee clauses in enterprise agreements—a bill that has previously been rejected, quite wisely, by the Senate.

Tony Abbott's resort to histrionics and theatrics to impose an industrial agenda on unions and employers, contrary to their wishes, is becoming increasingly commonplace. As I have indicated to the House on numerous occasions, Mr Abbott wants to pull the plug on outcomes that employers and unions have agreed to in respect of bargaining fees for non-unionists. He also wants to introduce legislation that will hamstring a union's ability to undertake industrial action, despite the fact that protected industrial action notices have been legally served and are provided for in his legislation. But it goes further. Mr Abbott is attempting to impose stringent industrial conditions tied to Commonwealth funding for construction projects.

**The Hon. Duncan Gay:** He's got you guys worried.

**The Hon. JOHN DELLA BOSCA:** He's got me very worried. These conditions will only result in the destabilisation of the harmonious industrial framework that operates within New South Wales. And now, in a clear case of blackmail, Mr Abbott is threatening Australian car manufacturers that unless they resort to extreme legal actions against unions and their employees when industrial disputes occur—

**The Hon. Duncan Gay:** Point of order: The Special Minister of State clearly indicated that the Federal Minister was progressing down a path of blackmail. His comment was not directed at groups; it was clearly directed at a person. I ask you to direct the Minister to withdraw the comment.

**The Hon. JOHN DELLA BOSCA:** In so far as it suggests anything personal about the Federal Minister, I withdraw the comment. However, it does apply to the approach of the Commonwealth Government in respect of this matter. I unreservedly withdraw the comment in respect of the Federal Minister. I draw the Deputy Leader of the Opposition's attention to the fact that if the Federal Government were a private corporation, it would clearly be in breach of section 45 of the Trade Practices Act. It would be liable to prosecution by car manufacturers, unions or the Australian Competition and Consumer Commission.

**The Hon. Duncan Gay:** Further to the point of order: The Minister indicated he was going to withdraw the comment unreservedly, but he then continued to qualify his withdrawal. I ask you to direct the Minister to withdraw the comment without any further reference.

**The Hon. Dr Arthur Chesterfield-Evans:** To the point of order: It is a defence in defamation that one is speaking in political debate that is a reasonable discourse and a reasonable matter for discussion, and I believe it should extend to this House. I do not believe we should be precious about the simple use of words such as that.

**The PRESIDENT:** Order! There are certainly standing orders that refer to remarks made directly about members of other places and other parliaments. However, the Minister's remarks were much more general than that and related to a particular dispute. The Minister was in order and may continue.

**The Hon. JAN BURNSWOODS:** I ask a supplementary question. Will the Minister elucidate his answer?

**The Hon. JOHN DELLA BOSCA:** Let us not forget that the Federal Government has set up an industrial relations system that is premised on workplace conflict. Yet, when this conflict eventuates, the Federal Government whinges about it and wants to change the rules. I have indicated before, and will indicate again, that Mr Abbott and other students in industrial relations would be well served by examining the success of the New South Wales industrial relations system.

The common rule award system serves to provide all workers, whether they are members of unions or not—with a meaningful safety net of conditions without relying upon protracted industrial action and the Industrial Relations Commission to conciliate and arbitrate disputes at an early stage. In other words, the unions provide that service of the common rule award system free of charge for the entire work force, courtesy of the New South Wales system. The ability of the commission to provide access to the \$18 a week safety net increase to award rates of pay with minimum delay indicates that the New South Wales industrial environment is working well.

#### **MOTOR ACCIDENTS AUTHORITY MOTORCYCLE SAFETY REPORT**

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** My question without notice is directed to the Minister representing the Minister for Transport. Is the Minister aware that the recently released Motor Accidents Authority report found that in 70 per cent of accidents involving motorcycles car drivers are found to be at fault? When will the Minister commit to funding road safety programs to educate car drivers to be more aware of motorcycle riders?

**The Hon. JOHN DELLA BOSCA:** In the absence of the Minister representing the Minister for Transport, I undertake to obtain an answer to the Hon. Dr Arthur Chesterfield-Evans' question and provide it to him as quickly as possible.

#### **POLICE KNIFE SEARCH STATISTICS**

**The Hon. PATRICIA FORSYTHE:** My question without notice is to the Minister for Police. Does the Minister still deny that the allegation made by Sergeant Mark Fenlon that knife-search statistics were raised with him in December last year? If so, how does he explain Sergeant Fenlon's notes that state that the complaint was handed to him? Were minutes of the December meeting taken, as stated by Sergeant Fenlon, and will he now release those minutes?



**The Hon. MICHAEL COSTA:** As honourable members are aware, these matters have been referred to the ICAC, but there is an opportunity with that question to make clear a couple of points. As a serving officer, Mr Fenlon is entitled to have his complaint investigated and investigated in a timely fashion. Mr Fenlon and I have a disagreement about what was discussed at the meeting on 10 December. As I said last Friday, I believe the investigation of the matters—

**The Hon. Duncan Gay:** Your memory has been a bit faulty in the past though, has it not?

**The Hon. MICHAEL COSTA:** Can I finish this? It is quite important and a number of people are waiting to hear the answer. I am happy to say that the matter has been referred to ICAC, and I will sit down, if that is what you want to hear? As I said last Friday, I believe the investigation of the matter by the police has been slow. Commissioner Moroney has undertaken to correct this. I am advised that arrangements are being made to interview Mr Fenlon in the presence of the Ombudsman. When the investigation is completed the results will be forwarded to the Police Integrity Commission [PIC] and the Ombudsman. Let me make some comments on the position of members of the Opposition on this matter. They claim a cover-up of a matter that had already been assessed independently by the Police Integrity Commission and is being assessed by the Ombudsman. That is clearly nonsensical.

**The Hon. Duncan Gay:** That is your pre-emptive report, is it? That is your finding?

**The Hon. Michael Gallacher:** You have written off the complaint already?

**The Hon. MICHAEL COSTA:** Members of the Opposition ought to be silent and listen to the answer.

**The Hon. Michael Gallacher:** We are listening to the answer, but it is not very good.

**The Hon. MICHAEL COSTA:** No, you are not. I will repeat my point. The Opposition claims there has been a cover-up of a matter that had already been assessed independently by the PIC and is being assessed by the Ombudsman. That is clearly nonsense. A few issues are outstanding. The first is the conduct of the investigations into Mr Fenlon's allegations, and the Opposition has referred those to the PIC. I might add, the Opposition referred those to the PIC at my request. That is sensible. Secondly, as I have said, the ICAC is the appropriate place for the Opposition's allegations against me to be dealt with, and they have been referred to the ICAC. That is sensible. The third allegation relates to the delay in the police investigation, and the Commissioner of Police is ensuring that there are no future delays. As I have indicated, arrangements are being made for Mr Fenlon to be interviewed in the presence of the Ombudsman.

A number of allegations have been made in relation to purported emails and other documents that have been allegedly circulated between various people involved in all of this. In relation to the principal matter, that is, the matters discussed with me by Geoff Schuberg, I have spoken to Mr Schuberg. He is prepared for me to make the following comments. The issues Geoff Schuberg discussed with me were concerns we both had that prior to operational and crime reviews [OCRs] police escalated their activities. That resulted in increased police activity and so increased statistics. As such, there were concerns about operational and crime reviews and how accurately they reflected police activity. That is why I took the decision, and why the commissioner supported the decision, to revamp the OCRs as part of the restructure. The announcement was made publicly many months ago. We want to increase police activity all the time, not just prior to OCRs. These are the facts of the matter. Currently we have— [*Time expired.*]

**The Hon. PATRICIA FORSYTHE:** I wish to ask a supplementary question. When did the Minister first become aware that allegations were being made by Sergeant Mark Fenlon about knife-search statistics?

**The Hon. MICHAEL COSTA:** I have already answered that question.

**The Hon. Michael Gallacher:** No, you have not.

**The Hon. MICHAEL COSTA:** I have certainly answered that question. Three matters are currently being investigated, and I welcome all of those investigations. Firstly there is the investigation into Mr Fenlon's allegations that were referred by PIC originally to the Ombudsman, and those matters are being investigated internally. In addition to that, as I understand it, the other evening at my request the Opposition also referred these matters to PIC, and I think that is sensible. That is where they ought to be dealt with. The second set of allegations is against me, and I have referred those to the ICAC. That is a sensible place for them to be dealt

with. In relation to the third issue, I spoke to the Commissioner of Police, and he is ensuring that the inquiry into Mr Fenlon's allegations is conducted without delay. On all three matters either an inquiry is in place or an investigation is about to be commenced. That is all I can say on this matter. I have three envelopes here—one addressed to Irene Moss, the commissioner of the ICAC; another addressed to Bruce Barbour, the New South Wales Ombudsman; and the third to Terry Griffin, the Commissioner of the Police Integrity Commission. I suggest to members of the Opposition that if they have any further information, they use these envelopes to present that material to the relevant inquiry.

**The PRESIDENT:** Order! With reference to my previous ruling, I clarify that it is disorderly to reflect on a member in another place but it is not disorderly to reflect on members of another Parliament.

#### **INFORMATION AND COMMUNICATION TECHNOLOGY ASSOCIATION FOR COMPUTER MACHINERY COMPETITION**

**The Hon. HENRY TSANG:** My question without notice is to the Treasurer, and Minister for State Development. Will the Treasurer provide the House with details on the quality of information and communication technology [ICT] graduates from New South Wales universities as compared with their international counterparts?

**The Hon. MICHAEL EGAN:** The Hon. Henry Tsang's question is a timely one. As the House is aware, New South Wales universities are developing highly skilled ICT graduates. Honourable members will recall that just two weeks ago I spoke about the ongoing efforts and achievements of students from the school of computer science and engineering at the University of New South Wales in the international RoboCup soccer competition. Following my encouraging words about the talented students at the University of New South Wales in the run-up to this year's competition in Japan, I am able to report that after a tense penalty shoot-out the Australians finished overall runners-up to the United States team. However, I am particularly pleased that various media outlets, including Channel 9's *Today Show* and even the *Sydney Morning Herald* have followed my lead by promoting the University of New South Wales students' bid for RoboCup 2002. It is always rewarding to be able to promote the talents of our future ICT professionals, and it is doubly so if I am able to direct our local media to take up the cause. So, I place on record my warmest congratulations to the team from the University of New South Wales on their outstanding results.

I alert the House, and perhaps the media, of another avenue in which our high-calibre graduates contribute to New South Wales' position as a leading centre for information and communication technology in the Asia-Pacific region. New South Wales ICT graduates continue to compare with the best in the world at the annual Association for Computing Machinery [ACM] International Collegiate Programming Contest. Established in 1977 the ACM contest is sponsored by IBM and is the largest and most prestigious programming contest in the world for university students. The competition fosters creativity, teamwork and innovation in building new software programs, enabling ICT students to test their programming ability under pressure. This challenge pits student teams against eight or more complex problems to be solved within a five-hour deadline. The teams design test bids and build software systems to solve problems under the intense scrutiny of expert judges. The team that solves the most problems in the fewest attempts and in the least time is declared the winner.

In 2001 at the ACM contest in Vancouver a team of four students from the University of New South Wales was ranked eleventh in the world. That is a major achievement, considering that a total of 2,180 teams from more than 1,000 universities in seven countries were participating in the competition. The University of New South Wales team was ranked ahead of some of the most prestigious universities in the world, including Stanford, Berkeley, Carnegie Mellon and the Indian Institute of Technology. The team from the school of computer science and engineering at the University of New South Wales was the winner in the South Pacific regional competition held in September 2001. This team qualifies for the 2002 world finals in the ACM programming contest held in Honolulu in March. The University of New South Wales team again came eleventh in the world out of 3,082 participating teams. The continuing strong performances of the University of New South Wales teams are a good indicator of the quality of New South Wales graduates in the area of information technology [IT] and communications in this State.

**The Hon. Patricia Forsythe:** What about the Government's lack of support for the vice-chancellor?

**The Hon. MICHAEL EGAN:** Governments do not appoint vice-chancellors. New South Wales information technology and communications graduates are renowned for being creative thinkers, skilled at analysing situations and developing innovative solutions. I have little doubt that the skills of local graduates will contribute to an increasing number of IT companies locating in New South Wales. [*Time expired.*]

### STATE FORESTS ANNUAL REPORT 2000-01

**The Hon. IAN COHEN:** My question is directed to the Treasurer. Was the Treasurer aware of, or had he seen, the State Forests 2000-01 annual report prior to my showing it to him earlier in the House? Has he been informed that the annual report registered an after-tax loss of \$44 million? Of course, the price of the land went up and the trees grew so State Forests was able to dress it up as a profit. Does the Treasurer accept that that works out at a cost to taxpayers of \$20 per cubic metre of log delivered to sawmills from State Forests? Will he tell the House how much money State Forests lost in 2001-02 and how much it cost the taxpayers last financial year to destroy old-growth forests and endangered species habitat?

**The Hon. MICHAEL EGAN:** I have not perused the annual report of State Forests but I will do so. I would not want to confirm any assertion made in the Hon. Ian Cohen's question until I have had a chance of checking it carefully for myself. I will have a look at the report.

### POLICE KNIFE SEARCH STATISTICS

**The Hon. JOHN RYAN:** My question is addressed to the Minister for Police. Does the Minister's earlier reference to having concerns about "escalating activities" mean that he is admitting to what the Opposition has been saying for a week, that is, that knife search statistics were artificially inflated?

**The Hon. MICHAEL COSTA:** I refer to my previous answer on this matter.

### ABORIGINAL YOUTH PROGRAMS

**The Hon. AMANDA FAZIO:** My question without notice is directed to the Minister for Juvenile Justice, and Minister Assisting the Premier on Youth. What is the New South Wales Government doing to help indigenous young people preserve their languages and culture, and to help rehabilitate young offenders?

**The Hon. CARMEL TEBBUTT:** I thank the Hon. Amanda Fazio for her question on this important issue. It is a fact that young indigenous people are significantly overrepresented in the juvenile justice system. The Government is committed to working with the Aboriginal community to improve the lives of indigenous young people. Indigenous Australian cultures are some of the oldest continuing cultures in the world. They are a crucial part of Australian society, and the Government is determined to see that they remain so through the influence of up-and-coming generations. It is important that young indigenous people are given the opportunity to learn about their cultures and to have the chance to interact with elders from their own communities.

Last week saw the Government sponsoring the *Yarn Up 2* indigenous youth forum in Wollongong. This is the first official gathering of young and old Aboriginal people in New South Wales for more than 100 years, and there were 600 participants in all. The central theme of the forum was "Growing Up Our Leaders", to identify and encourage the next generation of indigenous leaders who will shoulder the need to seek solutions to community issues. The Government is providing funding for seven youth programs which preserve indigenous culture and which aims to address the reasons behind the levels of offending by indigenous young people.

These programs include funding for the Indigenous Social Justice Association at Southern Cross University to revise and maintain languages at risk of extinction; early intervention training through the Gamilaraay Bagandi Aboriginal Corporation in the New England region to reduce the chance of young people reoffending; a training project through the Gilgai Aboriginal Centre for young men with a history of elder abuse, teaching them to respect their elders; a camp for young girls run by the Walgett Violence Prevention Unit, to enable young girls to discuss their problems with female elders; a youth-run cinema in Bourke to encourage off-the-street alternative activities for young people, where they interact in a positive environment; the purchase of computer equipment for the Indigenous Social Justice Association to enable them to continue social justice work across New South Wales; and the purchase of a lift for the Murawina organisation to allow for long day care and preschool services to parents with disabilities.

While some of these projects are small in nature, they will make a difference to the lives of hundreds of young people. The most important aspect of these projects is that they seek to maintain and reinforce the tradition of young Aborigines respecting and valuing Aboriginal seniors. They provide opportunities for interaction between young indigenous people and older indigenous people, who are the keepers of the culture and the keepers of skills and history. This provides an opportunity for these lessons, this information, and this culture to be passed on to the younger generation.

**The Hon. James Samios:** How much are you spending?

**The Hon. CARMEL TEBBUTT:** The Government is spending \$246,000.

### **MULTIPLE CHEMICAL SENSITIVITY**

**The Hon. ALAN CORBETT:** My question is addressed to the Treasurer, representing the Minister for Health. As there has been no Australian survey on the prevalence of the condition known as multiple chemical sensitivity, on what evidence does the Minister base his statement made during the budget estimates that only "a tiny proportion of the population purport to suffer from MCS"? Is the Minister aware of some recent and credible American research held by his environmental health branch that indicates that 12.6 per cent of the population in north-western Georgia in America reported that they had a hypersensitivity to chemicals? Given the outcome of this and other surveys and research, which indicates that a significant proportion of people may have adverse health effects as a result of chemical exposures, will the Minister now acknowledge that a New South Wales survey of the prevalence of chemical sensitivity is both necessary and appropriate?

**The Hon. MICHAEL EGAN:** I will refer the Hon. Alan Corbett's question to the Minister for a response.

### **DISUSED POWER STATION SITES**

**The Hon. JENNIFER GARDINER:** My question is directed to the Treasurer. Are plans in place to dispose of various disused power station sites around the State, including the former Ashford power station near Inverell? If so, will similar development consent conditions be placed on those sites to promote gas-fired generation? If no plans are in place, will the Treasurer explain how the Government plans to deal with the expected new generation capacity identified in the Statement of System Opportunities released last week?

**The Hon. MICHAEL EGAN:** I am not aware of the Ashford Power Station; nor am I aware in whose ownership it might be. However, I will make some inquiries, and if I can obtain some useful information I will provide it to the House.

### **COMMUNITY ECONOMIC DEVELOPMENT CONFERENCE**

**The Hon. JANELLE SAFFIN:** My question without notice is addressed to the Treasurer, and Minister for State Development. Will the Minister provide the House with details of the Community Economic Development Conference and its benefits to country New South Wales?

**The Hon. MICHAEL EGAN:** I am pleased that Orange, along with Cabonne and Blayney councils, have been selected to host the Community Economic Development Conference to be held later this year.

**The Hon. Duncan Gay:** They are good councils.

**The Hon. MICHAEL EGAN:** I am sure they are good councils. The event draws more than 170 delegates from New South Wales, as well as experts in community economic programs and a range of internationally renowned speakers. The eleventh Community Economic Development Conference is projected to inject some \$70,000 into the region. The three-day conference is held each year to provide communities with an opportunity to discuss practical ways to expand their local economies and the economic future of their town. The conference will be held from 8 to 10 September and although it is mainly based in Orange, delegates will participate in field trips, luncheons and other functions in the shires of Cabonne and Blayney.

I am glad the conference will be held in Orange, a very important regional centre that is very much in the thoughts of the Carr Government, I might say. I understand that the local community is extremely dissatisfied with the performance of the local member. I am certain that the local community will enjoy the benefits of a marked improvement in parliamentary representation which the election of a good Country Labor member will bring after March 2003. I am not only looking forward to a Country Labor member for Orange but I have even got high hopes for a Labor member for Cronulla.

**The Hon. John Jobling:** You know what happened to the last one?

**The Hon. MICHAEL EGAN:** I quite concede that Cronulla will not be a seat that Labor will hold definitely but I would be quite happy for us to pick it up for another term or two, or three or four.

**The Hon. Michael Gallacher:** Why don't you stand?

**The Hon. MICHAEL EGAN:** That day will come. Last year's conference looked at a range of areas such as arts and culture, information technology, and tourism. These all have huge potential for economic development in regional areas. The local tourism industry, including restaurants, hotels and motels, transport and entertainment services all benefit from hosting the conference. The conference also generates media attention for the venue, providing the host town with opportunities to present itself as a tourism destination to the rest of New South Wales. Other benefits include the chance for the community to showcase local products and services and industry capabilities via field trips organised for delegates.

During last year's conference in Lismore—another fine country town—there were trips to Nimbin to inspect a working permaculture farm, a candle making facility, and a local company specialising in alternative renewable energy products. The Community Economic Development program aims to diversify and build on the strengths of local economies in an economically, socially and environmentally sustainable way. I am especially pleased that the Central West has been chosen to host the Community Economic Development Conference this year. It is timely recognition of the economic growth and development which is now a hallmark of that region.

#### **PRIMARY SCHOOL STUDENTS COMPULSORY PHYSICAL EDUCATION**

**The Hon. MALCOLM JONES:** My question without notice is to the Minister for Police, representing the Minister for Education and Training. Will the Minister consider the reintroduction of compulsory physical education for 10 to 20 minutes per day for every primary school student?

**The Hon. MICHAEL COSTA:** I will take that question on notice and get an answer from the Minister for Education and Training, but a number of other honourable members and I would be the last to be calling for that.

#### **DEPARTMENT OF COMMUNITY SERVICES JUVENILE ACCOMMODATION**

**The Hon. GREG PEARCE:** My question is to the Minister for Juvenile Justice. How many of the 4,296 admissions to juvenile justice detention centres in 2001-02 resulted from the Department of Community Services being unable to provide them with other suitable accommodation? What procedures has the Minister put in place to ensure that this inappropriate usage of Department of Juvenile Justice facilities by the Department of Community Services will not happen again?

**The Hon. CARMEL TEBBUTT:** The honourable member is fundamentally misunderstanding the way the justice system works. Nonetheless, for his information, young people who are spending time in custody in New South Wales are there because of decisions made by magistrates or judges. The honourable member is referring to occasions when bail is granted on conditions and sometimes for a range of reasons those conditions are not able to be met and a young person could spend time in custody until they meet those bail conditions. Sometimes those bail conditions relate to accommodation, and sometimes they relate to a whole lot of other issues. It is clearly a misrepresentation to suggest that the Department of Juvenile Justice or the Department of Community Services decides whether people spend time in custody. Quite clearly, magistrates and judges make decisions for young offenders to spend time in custody.

On previous occasions I have indicated to the House that accommodation for clients of the Department of Juvenile Justice is a matter that I take very seriously and about which I am concerned. I am aware that it can be difficult for juvenile justice clients to be appropriately accommodated when they are not able to reside at home for a range of different reasons. Juvenile justice clients often exhibit quite challenging behaviours that can be very difficult for mainstream refuges to manage. In that context perhaps the refuge has young people who are running away from home for the first time and have had no exposure to the types of behaviour that some clients of the Department of Juvenile Justice exhibit.

I have made clear to the House on previous occasions that I have asked the department to review the provision of accommodation for juvenile justice clients. This review will look at how best the Department of Juvenile Justice can meet the needs of its clients. Given that the provision of accommodation is not a core responsibility of the department, the department is nonetheless involved in the provision of accommodation through a range of programs. The review will also look at what style of accommodation best meets the needs of clients, and at the interaction between the Department of Community Services and the Department of Juvenile Justice. The Department of Community Services will be participating in this review process. The Department of Juvenile Justice will shortly go through an expression of interest process to commence this review.

### AUSTRALIAN TECHNOLOGY SHOWCASE

**The Hon. IAN WEST:** My question without notice is to the Treasurer, and Minister for State Development. Will the Minister inform honourable members of recent initiatives to assist New South Wales technology companies become export-ready?

**The Hon. MICHAEL EGAN:** The other night I was very pleased that I could remember that of the 370 Australian showcase companies, 313 were from New South Wales. That is a very precise figure and I remembered it.

**The Hon. Duncan Gay:** Was it accurate?

**The Hon. MICHAEL EGAN:** Yes, it was. I remember that, when I answered it, I wondered whether it was 310, 311, or 315 but I was spot-on: it was 313. The vast majority of the 313 Australian Technology Showcase companies in New South Wales are small—some very small—to medium-size companies. Many of them are either already exporting or have the capacity to grow their businesses offshore. The Australian Technology Showcase [ATS] assists technology companies to become export ready and to develop new markets via domestic mentoring and international promotion. In fact, more than 50 ATS companies have been assisted to expand into international markets in the past nine months through overseas business missions to the United Kingdom, which I led, and the United States of America. In addition, tailored assistance has been provided to companies expanding into Europe and Asia. I am advised that these initiatives have been instrumental in securing overseas orders valued at in excess of \$14 million.

Two industry seminars have also been recently held to assist ATS companies with their international development plans. The first was a specialised information and communications technology [ICT] industry briefing on "developing your software company for the international market" that was given by Steve Killelea, the Managing Director of Integrated Research Ltd. This seminar examined how Integrated Research Ltd successfully developed from a start-up company to its current size, with some 96 per cent of its revenue sourced from overseas markets.

The second was a briefing by Lou Richard, Chairman of Newport Capital Group, for Australian technology companies aiming to operate in the global market. This seminar covered various issues for companies aiming to establish a presence overseas, ranging from overseas market development, financial and personnel resource requirements, to equity capital.

I am pleased to advise of some ATS companies already successfully exporting. They include Fairlight ESP Pty Ltd, a world leader in digital recording, editing and mixing for film, video and music. They have systems installed worldwide, including in the United States of America, Japan, the United Kingdom, Germany and France. Another such company is Prognosis. The New York and London stock exchanges, MasterCard, Compaq and other companies in over 40 countries currently use the software solution developed by Integrated Research Pty Ltd. Another company is CI Technology Pty Ltd, a leading provider for Windows-based monitoring and control systems for industrial automation. The company has offices in the United States of America, Europe, Australia and China and is represented by more than 80 distributors in 40 countries. It is due to companies such as these that New South Wales ranks second in the world on a per capita basis in technology spending, providing an ongoing boost to the State's economy.

### MCDONALD'S FAMILY RESTAURANTS POLICE DISCOUNTS

**The Hon. RICHARD JONES:** Can the Minister for Police advise whether the junk food giant McDonald's is still corrupting our police officers by offering them free or half-price burgers, thus luring officers into McDonald's for extra policing? Apart from this corruption, is McDonald's also corrupting and jeopardising the health of our police officers with its dangerous high-fat, junk food diet?

**The Hon. MICHAEL COSTA:** I will get a detailed response to that question. I do not know what the essence of the question is.

**The Hon. John Della Bosca:** There's no meat in it.

**The Hon. MICHAEL COSTA:** I have got to say I do not mind a Big Mac and a thickshake once in a while.

### TALLAWARRA POWER STATION

**The Hon. JOHN JOBLING:** I direct a question to the Treasurer, and Vice-President of the Executive Council. The Treasurer made a statement in the House today that his Government will sell Pacific Power's former Tallawarra power station at Lake Macquarie. Will the Treasurer now inform the House whether the sale proceeds from the disposal of the Tallawarra site will be directed to promoting energy-efficient technologies—in line with the intended purpose of the site—or will it simply go to consolidated revenue for the Treasurer to continue his reliance on the electricity industry to retire government debt?

**The Hon. MICHAEL EGAN:** That question indicates that the Coalition is not deserving of ever being in government. It has absolutely no notion of the Consolidated Fund or what it is for. It seems to suggest that money that goes into the Consolidated Fund somehow goes up in smoke, or into my back pocket, or is used in some other way that is not for the benefit of the taxpayers of New South Wales.

**The Hon. John Jobling:** Why are you so sensitive about this?

**The Hon. MICHAEL EGAN:** I am not sensitive. I am simply amazed at the honourable member's ignorance. He is sitting beside the Hon. Don Harwin. They are like two peas in a pod. Have a look at them! Is the Hon. Don Harwin the understudy? Is he planning to take over as Opposition Whip when the Hon. John Jobling retires next year? He might not have the numbers. One would think, though, having been a member of this House for so long, that the Hon. John Jobling would be aware that the Consolidated Fund is the fund from which we fund all of the public and community services that the New South Wales Government provides to the people of New South Wales.

**The Hon. John Jobling:** Tell us what you are doing with the money.

**The Hon. MICHAEL EGAN:** It is the Consolidated Fund that provides the almost \$9 billion a year for our public health system.

**The Hon. John Jobling:** It's going toward the public debt hole, isn't it?

**The Hon. MICHAEL EGAN:** It is the Consolidated Fund that supplies the more than \$8.1 billion that funds our schools. Honourable members might not have heard the Hon. John Jobling interject a moment ago, "So none of it is going into debt reduction?" It seems that the Opposition has a problem with debt reduction. I can understand why. When they were in office all they did was increase debt—they never reduced debt. I did not know that was a deliberate policy of the Coalition. Debt reduction, it appears, is regarded by the Coalition as bad. We would be increasing our debt under the policies that the Coalition seems to be supporting. It was a silly question, and it was a very silly interjection by the Hon. John Jobling.

*[Interruption]*

Just because the Hon. Don Harwin is the understudy Whip does not mean he gets a question when question time has expired. If members have further questions—

**The Hon. John Ryan:** The Hon. John Hatzistergos wants to ask one.

**The Hon. MICHAEL EGAN:** Sit down, young man! Your turn will come. It will not be long before you are answering questions; you will not be bothered with asking them, let me assure you of that. So just be patient and bide your time. I had to wait many, many, many years. There were many, many traps put in my way, I can tell you. There were many obstacles, but I outlived them all. Your turn will come before long. Mind you, it might not be until 2016. But, if I might say so, it is those who are patient who succeed most. If members have further questions, they might like to wait until tomorrow.

### POLICE RECRUITMENT TELEVISION ADVERTISEMENT

**The Hon. MICHAEL COSTA:** The Hon. Dr Peter Wong asked a question earlier. I can now advise the House that April Pham of the Police Ministers Advisory Council has, via email, expressed concerns about the police recruitment advertisement. In reply to that email, Geoff Schuberg has requested that this matter be discussed at the next Police Ministers Advisory Council meeting. I think that is a sensible idea. I am happy to have the discussion at the next advisory meeting.

**DEPARTMENT OF COMMUNITY SERVICES JUVENILE ACCOMMODATION**

**The Hon. CARMEL TEBBUTT:** Earlier the Hon. Greg Pearce asked me a question and I can now provide some more information about the department's call for tenders to conduct the review of accommodation support. Advertisements were placed in the *Sydney Morning Herald* and the *Australian* on 5 June 2002 and the *Koori Mail* on 12 June 2002.

**Questions without notice concluded.****ASSENT TO BILLS**

Assent to the following bills reported:

Crimes (Forensic Procedures) Amendment Bill  
Crimes (Administration of Sentences) Amendment Bill  
Summary Offences Amendment (Places of Detention) Bill  
Greyhound Racing Bill  
Harness Racing Bill  
Local Government Amendment (Miscellaneous) Bill

**WESTERN LANDS AMENDMENT BILL****Adoption of Recommitted Report**

**The PRESIDENT:** On Wednesday 19 June 2002 the Western Lands Amendment Bill was recommitted for the further consideration of schedule 4. At that time the Hon. Ian McDonald commenced to move an amendment on behalf of the Government, and debate ensued. Shortly thereafter the Committee reported progress, and leave was granted to sit again. The following day the Committee resumed, at which time the Minister indicated that the Government did not intend to proceed with the amendment. The recommitted schedule was subsequently agreed to without amendment.

The Clerk has drawn to my attention that during the recommitment of schedule 4 on Thursday 20 June 2002, while the Government did indicate that the amendment would not be proceeded with, the amendment should have been withdrawn for completeness of the official record. This did not occur. The amendment was therefore not disposed of, in a technical sense. As the House has finally passed the bill according to the wishes of the Committee, and the bill is no longer before the House, it is not possible to correct the technical error. If the House agrees, this statement should correct the record and conclude the matter.

**SPECIAL ADJOURNMENT****Motion by the Hon Michael Egan agreed to:**

That this House at its rising today do adjourn until Wednesday 26 June 2002 at 10.00 a.m.

*[The President left the chair at 4.50 p.m. The House resumed at 8.30 p.m.]*

**MINING LEGISLATION AMENDMENT (HEALTH AND SAFETY) BILL****Second Reading****Debate resumed from 18 June.**

**The Hon. DON HARWIN** [8.30 p.m.]: This bill has several objectives. They include amending the Occupational Health and Safety Act to enable the appointment of inspectors to perform functions under that Act solely in relation to mines, as well as to amend the Coal Mines Regulation Act and the Mines Inspection Act to provide that the exercise of the functions referred to in the first objective are subject to certain requirements that exist in relation to the exercise of inspection and investigation functions under the mining legislation. The third objective is to amend the Coal Mines Regulation Act to bring the definition of "owner" under that Act into line with the definition of "owner" under the Mines Inspection Act. The final objective of the bill is to amend the Mining Act to provide for the establishment of a Mine Safety Advisory Council. The Opposition welcomes the bill, which we see as a sensible measure. On behalf of my colleague the Deputy Leader of the Opposition, who has been detained by another important appointment and is unable to be with us at the commencement of this debate, I indicate that the Opposition has no amendments and will not be opposing the bill.



**Ms LEE RHIANNON** [8.33 p.m.]: The Greens support this bill. It provides for the implementation of an important International Labour Organisation [ILO] convention on mining safety, by clarifying the definition of a subcontractor in a mine and by establishing a Mine Safety Advisory Council with union, employer and government representation. It also grants occupational health and safety powers to the Department of Mineral Resources inspectorate. Each of these provisions should add to the safety of mineworkers in New South Wales. As such this bill receives the strongest support from the Greens. For many years mineworkers topped the list of injuries and fatalities, so this legislation is most timely. The Greens are particularly pleased to see another ILO convention being implemented in legislation by this Parliament, especially one that refers to the mining industry. As corporations become increasingly transnational in their range of activities it is essential that regulatory responses to those corporations also become international. It is only collective international responses that can resist the outcomes of national competition undermining safety standards.

The recent mining disaster in China that killed and injured hundreds of workers illustrates with tragic consequences what can go wrong in a mining setting. Indeed, the history of mining is a history of human tragedy. The appalling incidence of lung disease amongst mineworkers in the Third World also illustrates what can happen when the highest standards of occupational health and safety are not enforced. The only antidote to the spread of corporate abuse of the mining work force is the institution of truly international standards of safety. To do otherwise is to create economic advantage for corporations that operate in countries that are less safe. Leaving such matters up to the good intentions of the mining industry or to so-called self-regulation has proved to be a race to the bottom in safety standards. The bottom line of corporate boardrooms has proved to be completely without conscience, especially in the mining industry.

Similarly, leaving the regulation of safety entirely to individual national governments places pressure on governments to reduce safety standards to achieve lower-cost environments in the race to attract investment activities. Less developed nations are particularly vulnerable to the need to increase economic activity and thus fall under massive pressures to not regulate for world's best practice in mine safety. The development and implementation of ILO conventions provides an international standard for mine safety that can secure safe working conditions in all countries. The Greens welcome this legislation. I understand that the mining division of the Construction, Forestry, Mining and Energy Union has also been involved in discussions, as well as other stakeholders. We welcome the fact that the Government has chosen to work closely with those people and organisations.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [8.38 p.m.]: I support this bill and congratulate the Government on it. It is principally administrative, in the sense that the existing arrangements are along the same lines and there have been improvements in the death rates in mining.

Traditionally mining has been the least safe occupation, with a number of deaths and serious injuries per year. That is partly due to the very difficult, unnatural conditions of being a long way underground. With longwall mining there is always the risk of collapses as the operation proceeds, and there is always the danger of explosion because of the nature of hydrocarbons and methane gas trapped amongst the coal. That gas can build up to an explosive level and there is an ever-present danger of fire and explosion. Certainly, this needs to be dealt with thoroughly. The International Labour Organisation convention is an attempt to get that universally. In this bill, we believe the Government is making a serious effort to improve mine safety, and we congratulate it on that.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [8.40 p.m.]: The Opposition is pleased to support the Mining Legislation Amendment (Health and Safety) Bill, which will ensure that the health and safety legislation associated with mining in New South Wales offers the best possible protection for the State's 15,000 mineworkers. It is essential that an effective process of consultation and communication is established within the mining industry, in which the risks are managed and mineworkers are protected from harm. This bill contains amendments to four pieces of legislation: the Occupational Health and Safety Act 2000, the Coal Mines Regulation Act 1982, the Mines Inspection Act 1901 and the Mining Act 1992. The first object of the bill is to amend the Occupational Health and Safety Act 2000 to enable the appointment of inspectors to perform functions under that Act solely in relation to mines.

At present, safety staff of the Department of Mineral Resources conduct occupational health and safety inspections of coalmines but do not have some of the powers offered to inspectors under the Occupational Health and Safety Act. These amendments are commonsense and will bring into line the powers of the departmental inspectors. The second object of the bill is to amend the Coal Mines Regulation Act 1982 and the Mines Inspection Act 1901 to clarify the application to subcontractors of the provisions of the Coal Mines

Regulation Act. This is a definitional amendment, as currently only contractors are specified in legislation. While subcontractors are generally taken to be included in the definition, the amendment will make that a specific definition.

The bill will also amend the Coal Mines Industry Act 1982 to bring the definition of "owner" under that Act into line with the definition of "owner" under the Mines Inspection Act 1901. The final object of the bill is to amend the Mining Act 1992 to create within the legislation an existing tripartite health and safety advisory council, known as the Mine Safety Advisory Council. The council is currently operational, and I understand that it was set up quite properly following the tragic Gretley mine disaster. As the peak advisory body covering the entire mining industry, the Mine Safety Advisory Council is critical in co-ordinating a truly industry-wide approach to health and safety. The Opposition agrees with the Government's belief that giving the council a basis in legislation will reinforce its importance to the mining industry and enhance its status.

The council's three industry sector advisory committees—the coal advisory committee, the metal advisory committee and the extractive industry advisory committee—will continue to support the important work of the council. Because the council will cover the whole of the mining industry, it is appropriate that its legislative function be in the Mining Act rather than in the individual mining health and safety Acts that cover specific parts of the industry. The Opposition supports schedule 1 [1] as it amends the definition of "owner" in the Coal Mines Regulation Act to provide that the owner of a mine or part of a mine that is being worked by a subcontractor includes the subcontractor. It also supports schedule 1 [3] as it enables savings and transitional regulations to be made in relation to the amendments to the Act outlined above.

The Opposition supports schedule 3 relating to the amendment of the Mining Act 1992. Schedule 3 provides for the establishment of the Mine Safety Advisory Council by the Minister, and includes representatives from peak industry and employee organisations. The advisory council will provide advice to the Minister on any policy matter relating to occupational health and safety in mines and any other advisory function relating to occupational health and safety in mines that is prescribed by regulations. The Opposition supports schedule 4 relating to the amendments to the Occupational Health and Safety Act 2000. Schedule 4 [4] enables the Minister to appoint inspectors to carry out functions under the Act in relation to mines. Those functions include powers of entry and inspection in relation to mines, and the issue of improvement and prohibition notices in relation to mines.

Schedule 4 [5] has an administrative purpose in that it requires the inspectors to be issued with identification cards. Items [1] to [3] and [6] to [8] in schedule 4 are necessary and are of a consequential nature. Schedule 4 [9] enables the Minister and the Director-General of the Department of Mineral Resources to delegate certain functions under the Act relating to mines. Schedule 4 [10] enables savings and transitional regulations to be made in relation to the amendments to the Act outlined above. The Opposition supports this amending bill as it formalises the operations of the Mine Safety Advisory Council. The bill has the support of both the industry and the unions, which, in my limited co-ordination with this area, is not unusual and is to be encouraged. Undoubtedly, the legislation will minimise the occupational hazards associated with mining by correcting any inadequacies in existing legislation and ensuring that miners in New South Wales are offered the best possible protection in a dangerous industry.

There is no doubt that prevention is better than cure when it comes to accidents. The Opposition has consulted the New South Wales Minerals Council on this bill. Naturally, as the major employer representative body, the Minerals Council has an interest in these matters, and its executive director informed me that the legislation is welcomed because of the areas that it tidies up. The Opposition supports this bill because it recognises the importance of the mining industry to New South Wales. More important than that, the protection of those who work in mines is paramount, and this legislation will build on an existing framework of safety in the mining workplace. The Opposition congratulates the Minister and the department on this legislation.

**The Hon. JOHN JOBLING** [8.48 p.m.]: I shall speak to the Mining Legislation Amendment (Health and Safety) Bill as I come from Muswellbrook in the Hunter, which has a large number of both underground and open-cut mines. Without doubt, underground mining is an extremely dangerous industry. The industry has been fraught with difficulties and, therefore, the health and safety of those who work in that industry is paramount to most of us who understand what happens. Open-cut mining has changed to a large extent. Many safety measures have been introduced, and so they should be. We must look after the people in the mining industry, their future, their career and their health and safety. If we do not, we will return to the 1800s and 1900s, when the mining industry was not safe, careful or looked after.

Underground mining is a dangerous occupation. I know many miners in the Hunter who work in both underground and open-cut mines. With some 15,000 miners in the industry, this legislation is long overdue. This

bill will amend the Coal Mines Regulation Act 1982 to bring the definition of "owner" under that Act into line with the definition of "owner" under the Mines Inspection Act 1901. The bill will also amend the Occupational Health and Safety Act 2000. This legislation is desirable, and the Government should be congratulated on introducing legislation which will ensure the safety of those involved in the mining and metalliferous industries. Schedule 1 to the bill amends the definition of "owner" in the Act to provide that the owner of a mine or part of a mine that is being worked by a subcontractor includes the subcontractor.

The amendment gives effect to the provisions contained in International Labour Organisation Convention 176, to which the Minister referred, and mirrors the amendments made in the definition of "owner" in the Mines Inspection Act 1901, a time when things were very different. In those days mining was dangerous, nasty, and wet. I am sure that if honourable members saw the conditions in underground mines—the lighting and the depth—I am sure they would not begrudge any form of protection for miners. Schedule 1 deals also with the appointment of an inspector in a mine to exercise functions under the Occupational Health and Safety Act 2000. This schedule will entitle a person being questioned by the inspector to nominate another person to be present while being questioned. Accidents do occur in underground mines. For example, the roof of a mine can collapse despite many precautions being taken.

The requirements of schedule 1 [2] are most important. The provision enables regulations to be made applying other requirements to inspectors appointed under the Occupational Health and Safety Act, which the Opposition will support. Schedule 1 [2] requires an inspector appointed in relation to a coal mine under the Occupational Health and Safety Act to allow certain persons being questioned by the inspector to nominate another person to be present, as is the case when inspectors under the Mines Inspection Act 1901 question persons. It would be fair and just for a miner who is traumatised from an accident to have a person present when an inspector is doing his job, trying to ascertain where, why and how the accident occurred. The miner needs to be protected to ensure that he does not say something that could, in the future, unjustly lead to him being held liable.

Schedule 3 to the bill amends the Mining Act 1992 by establishing a Mine Safety Advisory Council by the Minister to include representation from peak industry and employee organisations. The Advisory Council is to have the function of providing advice to the Minister on any policy matter relating to occupational health and safety in mines and any other advisory function relating to occupational health and safety in mines that is prescribed by the regulations. Schedule 4 amends the Occupational Health and Safety Act 2000 to enable the Minister to appoint inspectors to carry out functions under the Act in relation to mines. Those functions include powers of entry and inspection—and I make the point that it is only in relation to mines—and the issue of improvement and prohibition notices in relation to mines. This bill is long overdue, and as my colleague the Deputy Leader of the Opposition said, the Opposition does not oppose the bill.

**The Hon. RICHARD JONES** [8.57 p.m.]: I support the Mining Legislation Amendment (Health and Safety) Bill, on which I congratulate the Minister and his advisors. We consulted with the Construction, Forestry, Mining and Energy Union, which has no concerns about the bill. The union was obviously well consulted by the Minister. We should do everything we possibly can to protect our miners. Whilst it might be a rewarding job, mining is a difficult and dangerous job. On behalf of the entire community I support all measures to protect those who carry out this task.

**Reverend the Hon. FRED NILE** [8.58 p.m.]: The Christian Democratic Party supports the Mining Legislation Amendment (Health and Safety) Bill. We are always very concerned about legislation that deals with those who work in the mining industry, for obvious reasons. It is important that they have good legislation to protect their health and safety, so we are pleased to support this bill.

**The Hon. CARMEL TEBBUTT** (Minister for Juvenile Justice, Minister Assisting the Premier on Youth, and Minister Assisting the Minister for the Environment) [8.59 p.m.], in reply: The Mining Legislation Amendment (Health and Safety) Bill is rare in that it has absolute unanimous support from every speaker. That does not happen often. The genuine feeling from all speakers about their concern for the health, safety and welfare of our mineworkers is clear and heartfelt. That is why the Government is pursuing this legislation. The bill makes important amendments to our overall occupational health and safety law, with the aim of securing the vital goal of the health, safety and welfare of our mineworkers. I acknowledge the contributions of all honourable members, and I commend the bill to the House.

**Motion agreed to.**

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

**LEGAL AID COMMISSION AMENDMENT BILL****Second Reading****Debate resumed from 18 June.**

**The Hon. JAMES SAMIOS** [9.00 p.m.]: The objects of the Legal Aid Commission Amendment Bill is to amend the Legal Aid Commission Act 1979 to make provisions with respect to the performance of legal aid work by private legal practitioners, and in particular to arrange for the assignment of work on behalf of legally assisted persons through the establishment of panels of private legal practitioners; to require members of panels to enter into service provision agreements with the Legal Aid Commission of New South Wales; and to enable the commission to audit private legal practitioners to whom work is assigned.

Honourable members are no doubt aware that the Legal Aid Commission has in the past played a pivotal role in providing legal aid services to the socially disadvantaged. It has worked in partnership with private lawyers to represent more than half of all legally assisted people in case matters. The proposal seeks to ensure the most equitable arrangements regarding distribution of work to private lawyers. It is noteworthy that about \$37.8 million was paid in 2000-01 to private lawyers by the commission. Indeed, we are informed that 57 per cent of the commission's case work was assigned to private lawyers—a not inconsiderable proportion. In August 2000 an independent consultant was appointed by the commission to review the operation of its grants function, and in December that year produced a report.

The aim was to ensure a more equitable distribution of assistance grants. As a result, the commission will set up a panel of private practitioners to develop with solicitors appropriate legal service agreements and practice standards. For that purpose, certain parameters are set for appointment to the panel by a select committee. The select committee will include a nominee of the Law Society, the Bar Association and such other persons as may be appointed by the commission. In addition, some fairly rigorous rules will apply to the appointments. For example, appointments to panels will apply to specific individuals and not to firms. Furthermore, there will be a process of auditing to review the grants function report. The Opposition will not oppose this legislation. The review was an important step in providing a more equitable arrangement for the distribution of grants. Accordingly, the Coalition will monitor developments appropriately after the legislation is passed.

**The Hon. IAN COHEN** [9.06 p.m.]: On behalf of the Greens I support the Legal Aid Commission Amendment Bill, which provides a process for the commission to establish panels of suitably qualified private practitioners to act for legally persisted people. It requires the panel members to enter into service provision agreements, and it enables the commission to audit the work of assigned practitioners. The bill formalises an arrangement already in place. The Legal Aid Commission paid more than \$37 million last financial year to private practitioners, so it is important that this process is regulated. The Greens commend the Government for the bill.

**The Hon. RICHARD JONES** [9.07 p.m.]: I enthusiastically support the Legal Aid Commission Amendment Bill. This is very good legislation, and it is about time it was introduced in this State. I understand that members of the panel will have to be adequately qualified and that a tender process will be implemented. Hopefully, many lawyers will apply and we will have a very large pool of lawyers from which to choose. Those lawyers will receive a fixed rate of \$100 per hour initially, rising later to \$110 an hour. So there will not be sorting of the system. Those engaged will be paid the same rate. That is a very good thing. I hope many lawyers of this State will apply and will be involved in legal aid work.

**Reverend the Hon. FRED NILE** [9.08 p.m.]: The Christian Democratic Party is pleased to support the Legal Aid Commission Amendment Bill. It is important that those involved in providing legal aid operate under certain requirements and rules, especially given the amount of money involved in providing this service. In 2000-01 approximately \$37.8 million was paid to private lawyers by the commission, and 57 per cent of the commission's casework was assigned to private lawyers. For that reason we support the provisions of the bill to provide for the conducting of audits.

The commission will establish audit protocols with the Law Society and the Bar Association, and the audit normally will be carried out by staff of the commission's Audit Branch. Safeguards are included in the bill to minimise the risk that, if a member of the commission acts for another relevant party, information obtained in the course of an audit is improperly disclosed to that staff member. The main purposes of the audits will be to

verify claims and certifications made by practitioners during the application and account payment processes. This legislation will help to ensure that public moneys are accounted for and used correctly for the benefit of those who require legal aid in this State. The Christian Democratic Party is very happy to support the bill.

**The Hon. MICHAEL EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.09 p.m.], in reply: I thank honourable members for their contribution to the debate.

**Motion agreed to.**

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

## **PROPERTY, STOCK AND BUSINESS AGENTS BILL**

### **In Committee**

**Parts 1 to 4 agreed to.**

#### **Part 5**

**The Hon. RICHARD JONES** [9.12 p.m.]: I move my amendment No. 1:

No. 1 Page 50, clause 66, lines 9-28. Omit all words on those lines. Insert instead:

**66 Bidding at auction by or on behalf of seller or auctioneer prohibited**

- (1) At a sale by auction of residential property or rural land:
  - (a) the seller or any person on behalf of the seller or auctioneer must not bid, and
  - (b) the auctioneer must not take from the seller or any person on behalf of the seller or auctioneer any bid knowing that the bid is in contravention of this section.

Maximum penalty: 100 penalty units.

This amendment, and the other amendments which I will move later, ensure that sellers, or persons acting on their behalf, can make only one bid, that that bid must be a starting bid, and that that bid must be advertised. Bidders must declare whether they are acting on behalf of the vendor, the vendor's agent or the auctioneer. The bidders are able to check the list of all registered bidders to satisfy themselves that the list at least appears to be bona fide. The amendments are crucial because the bill, as it is currently drafted, fails to provide adequate protection from dummy bidding. The requirement contained in the bill for bidders to be identified does not provide any worthwhile protection for buyers. Bidders will not be given access to the register of bidders, and even if they were they could not tell from the register whether their fellow bidders are genuine, as there is no onus on the bidders to identify whether they are acting on behalf of the vendor, the agent, or even the auctioneer.

Consumers purchasing at auction should be completely confident that all bids made against them are being made by genuine fellow purchasers and that the value of the property determined by the auction is truly that of the market of buyers. The bidders should therefore be required to declare whether they are acting on behalf of the vendor, the vendor's agent or the auctioneer. Bidders should also be able to check the list of all registered bidders to satisfy themselves that the list at least appears to be bona fide and vendors should be able to make only one advertised bid at the start of an auction. I have received correspondence from the Real Estate Institute of New South Wales and I have met with the institute's representatives and with the Australian Consumers Association. The association does not believe there is adequate protection in the bill, as it stands, from dummy bidding. That is why I am moving these amendments.

The Real Estate Institute believes that this is a solution waiting to find a problem, as stated in its letter to me and to other honourable members. The institute is proposing amendments which it would like to have moved because they would allow the highest bidder at the end of the auction of a property that is passed in to have 10 minutes to negotiate to buy the property at the reserve price. That is an interesting concept. The institute's idea is that when a property is auctioned and it does not quite reach the reserve price, it sometimes happens that a number of people who have been sitting on the sidelines suddenly move in and negotiate before even the highest bidder has a chance to do so. The institute would like to ensure that the people who are sitting on the sidelines become obliged to bid, otherwise they will not be able to negotiate to buy the property. In other words, the last bids would be genuine bids from those who have an interest in buying the property because if they were interested in buying and they did not bid, they would not have a chance of negotiating for at least 10 minutes.

The final bidder when the property is passed in below the reserve price would have that opportunity. As the institute sees it, that would eliminate the problem of dummy bidding. Some people have said that there is no dummy bidding above the reserve price. Members of this House have had the experience of dummy bidding above the reserve price, so dummy bidding above the reserve price does go on. It is only logical that dummy bidding, that is, bidding on behalf of the vendor, will distort the market. I saw a property on the main road at Manly passed in recently at a price of \$800,000. I would have been fairly certain that dummy bidding bumped the price up to \$800,000 because there was no way that the property was worth as much as that. If dummy bidding continues and properties are passed in more and more frequently, that will distort a downward market trend for a longer period than should otherwise be the case. Conversely, if there is no dummy bidding or there is transparent dummy bidding, clearly the market price would be revealed much earlier and consequently would move at a faster pace. One might also find that property prices move down at that faster pace.

If dummy bidding is maintained and properties are passed in, presumably properties would be put on the market at the price that the vendor expects to obtain. But with dummy bidding, the market would not reveal to buyers what the market assesses the property's value to be. In a sense, dummy bidding distorts the marketplace and removes competition. It is a good idea from a market point of view for vendors and buyers to eliminate that distortion of the marketplace, so that prices can move as quickly as the market moves and so that the movement can be revealed. I understand the problem that the Real Estate Institute has with the amendment I have moved, and I understand that the Government has a problem with it too, but a way must be found to remove the obstacles from the marketplace so that the market may operate properly.

**Ms LEE RHIANNON** [9.17 p.m.]: The Greens have a real problem with dummy bidding. We are certainly pleased with some aspects of this legislation, as I said when I spoke earlier, but we are disappointed that the Government did not go all the way with regard to dummy bidding. We believe that dummy bidding is a disgraceful and unnecessary abuse of buyers, many of whom are young people who are looking to buy their first home. They are at the mercy of unscrupulous vendors.

**CHAIRMAN:** Order! As the amendment moved by the Hon. Richard Jones and amendment No. 1 proposed by the Greens conflict, I ask Ms Lee Rhiannon to move Greens amendment No. 1. After consideration of the amendments, I shall put the question relating to the words sought to be deleted. Obviously, if that question is not agreed to, neither amendment can stand.

**Ms LEE RHIANNON** [9.19 p.m.]: I move Greens amendment No. 1:

No. 1 Page 51, clause 66, lines 9-27. Omit all words on those lines. Insert instead:

**66 Bidding at auction by or on behalf of seller or auctioneer prohibited**

At a sale by auction of residential property or rural land:

- (a) the seller or any person on behalf of the seller or auctioneer must not bid, and
- (b) the auctioneer must not take from the seller or any person on behalf of the seller or auctioneer any bid knowing that the bid is in contravention of this section.

The Greens are concerned about dummy bidding. As I said earlier, when young people are buying their first homes, because of their inexperience it is hard for them to detect what games are being played by various agents. The Greens amendment will go some way towards offering them protection, but I do not believe that it will go all the way. Cleaning up the real estate industry requires a significant and determined effort by regulators and the Government. This amendment, which is designed to make it easier to detect dummy bidding, will go some way towards ending that disgraceful practice. The Greens amendment would not permit one dummy bid—the situation that applies under current legislation. Such a bid from a vendor is unfair not only to genuine potential purchasers; it also provides legal sanction to an activity that I believe most members in our community find unacceptable. I urge honourable members to support the Greens amendment. It is not appropriate to have dummy bids at any auction.

**Reverend the Hon. FRED NILE** [9.21 p.m.]: I agree in principle with the statements made by Ms Lee Rhiannon and the Hon. Richard Jones. We require provisions in this legislation to deter phoney bidding. It is the intention of the Government, through this legislation, to establish a register of bidders. People have to register as bidders before an auction commences. The purpose of such a register is to eliminate phoney bidders. However, some dummy bidders are unscrupulous enough to put their names on that register. I have heard of people who have been ripped off by dummy bidders pushing up the price of houses.

It is easy for young people, who are anxious to buy a particular property, to go over their budgets in the excitement of the auction. However, they should not be pushed by greedy real estate agents into paying a higher price for those houses. I echo the concern that was expressed by other honourable members who contributed to debate on this legislation. I could refer to some examples of dummy bidding, but it would be dangerous for me to do that if I was not absolutely sure of the location at which they occurred.

**The Hon. RICK COLLESS** [9.23 p.m.]: The Opposition opposes the amendment moved by the Hon. Richard Jones and the amendment moved by Ms Lee Rhiannon. Basically, Opposition members believe that, in the heat of an auction, it is not always possible to identify exactly where a bid is coming from. That might be possible if there are only two or three bidders at a property auction, but 200 or 300 people might attend an auction in the west and it would be totally inappropriate to expect an auctioneer to know all the people at that auction. It is simply not possible to identify all bidders.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [9.24 p.m.]: The Australian Democrats are not in favour of dummy bidding. Clearly, it is a practice that is used to inflate the price of a home. I recall attending and bidding at an auction for a property for which the final bid by a person bidding against me was just beyond my means. As soon as I stopped bidding, the agent, without even looking at the other bidder, came straight to me and said, "The other bidder does not have the money. What will you pay?" My response was, "Go to hell. I can see that it is a dummy bid. I am not buying this house." Other people might have had a similar reaction. I was aware that the last few bids at that auction were definitely dummy bids. Some time later that real estate agent lost his licence and he was forced out of business. I am not sure whether those two events were related.

Dummy bidding certainly pushes up the price of a home. It has been said that dummy bids are used only to reach the reserve price of a home, but that has not been my experience. In my experience dummy bids well over the reserve price of a home are made. Agents push up the price until the end of the auction. The Australian Consumers Association wants the Government to ensure that this practice is discontinued. Buyers want to pay a legitimate price and not be subjected to the tricks that are used in the real estate trade. It was pointed out today by the Real Estate Institute that vendors are also consumers. Vendors want to achieve the highest price and bidders want to pay the lowest price. The Australian Democrats support the amendment moved by the Hon. Richard Jones.

**Ms LEE RHIANNON** [9.25 p.m.]: I listened carefully to the comments made earlier by my Opposition colleague the member Mr Rick Colless. If the honourable member is under the impression that the Greens amendment relates to stock agents, I inform him that it relates only to residential property and rural land.

**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) [9.26 p.m.]: The Government opposes the amendments moved by the Hon. Richard Jones and Ms Lee Rhiannon. The first amendment would remove current clause 66, which seeks to limit vendor bids to a single bid, prohibit the use of a vendor bid unless a notice of that right is included in the conditions of sale, and require the auctioneer when taking the vendor bid to state that fact clearly. The bill provides for a maximum penalty of 100 penalty units for a breach of that provision.

The proposed amendment would further restrict the use of a vendor bid by allowing it to be used only as a starting bid to commence the auction. The amendment would also make the right to use the starting bid contingent on the setting of a specified starting price, which would need to be notified in the advertisements published in the marketing of the property. While acknowledging that numerous bids from the vendor can lead to abuses, allowing the vendor only one bid will help to initiate the auction process. Alternatively, the bill allows a single vendor bid to be used later in the auction to facilitate the bidding process, for example, if bidding stalls. Consumer concerns about transparency are addressed by the requirement that the auctioneer clearly states, when accepting the bid, that it has been made by, or on behalf of, the seller.

The Government's provision acknowledges both consumer parties in the auction process—the buyer and the seller. For that reason the provision allows the seller one bid only, which needs to be announced at the time it is made. A bidder will be in no doubt that the bid has come from the seller. The requirement to advertise the starting price raises difficult policy concerns. Honourable members would be aware that misleading statements by agents about the estimated selling price of a property is a serious concern to consumers. Prospective purchasers have complained to the Department of Fair Trading about the practice by some agents of understating the estimated selling price. Those consumers have been misled into spending money on legal and building reports when the property was never in their price range.

To address this issue, clause 73 of the bill specifically prohibits agents from understating the estimated selling price in the course of marketing a property. Advertisements which state a starting price could give a false impression to prospective purchasers of the estimated selling range. In fact, the vendor's reserve price may be much higher than the starting bid amount. To introduce an amendment which would require agents to advertise it precisely in this manner would completely contradict the consumer protection aims of this division of the bill.

Advertising of auction starting prices is a time-honoured practice used by some agents to attract large crowds to auctions. Agents who indulge in such practices do not care whether the people they have misled have wasted money and/or time on obtaining expensive legal advice, pest control reports and so on for a property that was never within their price range. Also, such a provision could disadvantage a vendor. If the agent underquoted the starting price, the vendor would be prevented from starting the bidding at a more realistic price.

**The CHAIRMAN:** Order! The Committee has Greens amendment No. 1, which deletes lines 9 to 27, and the Hon. Richard Jones's amendment No. 1, which deletes lines 9 to 28. In order to allow further amendments to be moved, I propose to put the question relating to deletion of words on lines 9 to 27 first. If that is not agreed to, obviously those two amendments will be negatived, and a further amendment in relation to penalty points can be put. I will first put the Hon. Richard Jones's amendment, which deletes lines 9 to 27 inclusive. Those in favour say aye, those against say no. I think the noes have it, the noes have it.

**Amendment of the Hon. Richard Jones negatived.**

**The CHAIRMAN:** Order! That means the Committee will not proceed with the balance of the Hon. Richard Jones's amendment, nor the Greens amendment No. 1.

**Greens amendment No. 1 negatived.**

**Ms LEE RHIANNON** [9.31 p.m.], by leave: I move Greens amendments Nos 2, 3, 4 and 5 in globo:

No. 2 Page 51, clause 66, line 28. Omit all words on that line. Insert instead:

Maximum penalty: 200 penalty units.

No. 3 Page 55, clause 72, line 8. Omit all words on that line. Insert instead:

Maximum penalty: 200 penalty units.

No. 4 Page 55, clause 73, line 14. Omit all words on that line. Insert instead:

Maximum penalty: 200 penalty units.

No. 5 Page 56, clause 74, line 10. Omit all words on that line. Insert instead:

Maximum penalty: 200 penalty units.

The bill as drafted imposes a maximum penalty of 100 penalty units, that is \$11,000, for misrepresenting the estimated price to a seller or prospective seller, or to a prospective buyer, for failing to comply with a directive from the director-general to supply information, and for submitting a dummy bid. The Greens do not believe that that penalty is sufficient.

Given the massive profits that are made in the real estate industry, the benefit that can be derived by agents from quoting unrealistic estimated prices and the low probability of a successful prosecution, the Greens believe that a maximum penalty of 100 penalty units is too low to act as a disincentive. It may be that, in some large transactions, risking an \$11,000 fine would be a good commercial risk, especially given that the risk is low and the returns are high. The Greens propose a somewhat tougher financial penalty for agents who deliberately mislead prospective sellers and buyers or who refuse to comply with a written notice from the director-general to provide evidence of the reasonableness of any price estimate.

**The Hon. John Della Bosca:** Tough on crime.

**Ms LEE RHIANNON:** Tough on crime, you reckon? You are after a little more unity? These amendments would increase the penalty to 200 units, which equates to \$22,000. The Greens believe that forcing all real estate agents to truthfully quote estimated prices by giving some teeth to these measures will be in the best interests of the honest real estate agents who try to do the right thing, not only by making the competition between agents fairer but also by giving some degree of credibility back to the industry. I think members would agree that the industry certainly needs it. I commend the amendments to the House.



**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) [9.33 p.m.]: The Government accepts the Greens argument. The amendments propose a maximum penalty of 200 penalty units, that is \$22,000, to be applied to breaches of clauses 66, 72, 73 and 74. The amendments are supported.

**The Hon. RICK COLLESS** [9.33 p.m.]: The Opposition does not support the amendments. We believe that a fine of \$11,000 is more than adequate for breaches of the provisions referred to. A 100 per cent increase in the fine is unrealistic and inappropriate. One could imagine the public outcry if traffic fines were increased by 100 per cent.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [9.34 p.m.]: It is an interesting irony that the Greens seek to jack up the penalties and see who responds in this bidding war between the Government and the Opposition. I must confess I was watching with keen interest to see what the penalties would be. I wonder about the practical application of such an increase in penalty, in the sense that any real estate agent, being mindful of this law and the realities of the market, would probably say the price would be in the range of X and Y dollars. Obviously, that would probably be true. With regard to the suggestion that a reasonable estimate could then be nailed down, this would only become active if totally different figures are given to the buyer and seller. If one were to say that a realistic assessment is that the penalty would be in the range of X and Y dollars, of course the buyer would hope for X dollars, if that were the smaller figure, and the vendor would hope for Y dollars, being the larger figure.

I wonder to what extent we are really arguing about the issue. Obviously, if there is clear misrepresentation, it is reasonable to have a high penalty. If the chance of being caught is small and the possible benefits are large, it is really only a question of having the matter in proportion. However, I wonder how often this will be able to be achieved in practice. Obviously, a penalty that is commensurate with the profit to be made is appropriate.

#### **Amendments agreed to.**

**The Hon. RICHARD JONES** [9.37 p.m.], by leave: I move my amendments Nos 2 and 3 in globo:

No. 2 Page 52. Insert after line 14:

#### **69 Declaration that bidder not acting on behalf of auctioneer or seller**

- (1) A real estate agent must not enter details of a person in the Bidders Record for an auction unless the person has first signed and given to the agent a declaration (a *bidder's declaration*) in the form approved by the Director-General that states that:
  - (a) the person will not, in bidding at the auction, be bidding on behalf of the seller, the auctioneer or the seller's agent, and
  - (b) the person is not related to or associated with the seller, the auctioneer or the seller's agent, except as disclosed in the bidder's declaration.
- (2) A bidder's declaration given to an agent becomes part of (and is to be kept as part of) the Bidders Record for the auction to which the declaration relates.
- (3) A person who signs and gives a bidder's declaration to an agent knowing it to be false or misleading in a material particular is guilty of an offence.

Maximum penalty: 50 penalty units.

No. 3 Page 53, clause 70. Insert after line 16:

- (3) A Bidders Record for an auction is available for inspection before, during and within 48 hours after the auction to which it relates by any person whose relevant details have been entered in the Bidders Record, and a real estate agent who has possession of the Bidders Record must make it available accordingly.

I move the amendments for the reasons stated previously.

#### **Amendments negatived.**

#### **Part 5 as amended agreed to.**

#### **Parts 6 to 16 agreed to.**

#### **Schedules 1 and 2 agreed to.**

#### **Title agreed to.**

#### **Bill reported from Committee with amendments and passed through remaining stages.**

**CRIMES AMENDMENT (POLICE AND OTHER LAW ENFORCEMENT OFFICERS) BILL****Second Reading****Debate resumed from 18 June.**

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [9.40 p.m.]: The Opposition will not oppose the Crimes Amendment (Police and Other Law Enforcement Officers) Bill. In the main, the Opposition is supportive of this legislation, but it is long overdue. I am sure the Minister for Police will agree that the Government should have addressed this serious issue instead of sitting on its hands. Not only members of the New South Wales Police service but also law enforcement personnel are carrying out the investigative work of the New South Wales Crime Commission, the Police Integrity Commission, the Independent Commission Against Corruption, the Department of Corrective Services and the Department of Juvenile Justice. I may be corrected by the Minister but I think that just about everyone employed at the Police Integrity Commission will be covered by this bill.

The bill is long overdue because numerous law enforcement officers, and even their families, have become the subject of harassment because of their work. I am sure all honourable members will be greatly alarmed at any suggestion that law enforcement officers simply going about their duties find that not only they but their families are the subject of harassment or intimidation. I read with interest the Minister's second reading speech and it is good to see that the Minister is working with the Police Association to address some of these issues. Information coming through to the Opposition reveals that these are the issues the Government has ignored since coming to office in 1995.

The Minister's speech made no mention of Constable David Carty, whose murder was particularly unpleasant, not only in the circumstances leading up to it but in the way the people allegedly associated with his murder targeted and intimidated other police at that station. I am interested to hear whether the Minister believes that the bill provides for domestic situations. If someone is stalking or intimidating an officer's partner or de facto, who also is a law enforcement officer, would that be provided for under this bill, or would the fact of it being a domestic matter mean that it would not? It is only a minor matter, but when I worked in Internal Affairs for a number of years time and again I saw allegations of harassment and stalking by partners of police officers. The alleged stalkers may have been police officers who were able to access the computer-operated police system to try to find out the whereabouts of their partners. Does that constitute an offence under this bill?

This is an important bill. There have been many instances in which police have been protected. If the Minister wants to go further to ensure that these officers are protected, he might consider restricting access to information about police officers' drivers licences and other readily accessible forms of identification that are available through the public sector, whether it be through local councils or the Roads and Traffic Authority. I was aware of an instance on the Central Coast where the partner of a senior member of a motorcycle gang worked in a local Roads and Traffic Authority office. That person had access to the licence records of local police officers through that office. The Minister might consider the possibility of overcoming that.

I will be speaking with the shadow Minister for Police about whether some protection could be afforded to protect police officers from having their records looked at by someone who would use them for a corrupt purpose. No doubt the shadow Minister, on behalf of the Opposition, will prepare a lengthy presentation on this bill. I have spoken with him at length and I look forward to his contribution when this legislation goes to the Legislative Assembly.

**Ms LEE RHIANNON** [9.47 p.m.]: Like so much of the Carr Government's law and order agenda, at first glance this bill appears to be designed to achieve an entirely realistic set of objectives. That is, to protect police officers and their families from intimidation and harm, something to which all honourable members would be committed. However, reality lies somewhere far away from that benign ideal. I state up front the Greens' position on worker safety and, in this case, the safety of police officers. When we have these debates, our position is often distorted by ill-informed interjections and comments. Like all public sector workers, law enforcement officers deserve the best protection and safety. The Greens are committed to ensuring that all workers can enjoy a safe working environment and that their work does not compromise their home lives. But this bill provides only limited additional protection, and it comes at enormous cost.

I had hoped that the Opposition would have analysed this bill and not have been conned again by a piece of law and order legislation. This bill could be used to run cover for a corrupt law enforcement officer.

Before honourable members erupt, I ask them to contemplate proposed section 60C. This section could be used to prosecute a person seeking to collect and collate information on a corrupt police officer, or a person who was simply exercising his right to ask for an officer's badge number or name in order to make a complaint to the Ombudsman. That is why the Greens are opposing this legislation. The key problem lies in proposed section 60C and the prohibition on collecting information about a law enforcement officer with the intent of harming that officer. When one thinks about "harm" one might ask how the Greens can possibly oppose the bill. However, we need to examine the definition of "harm".

The Law Society advises by a letter dated 24 June from its president, Ms Kim Cull, that this prohibition could include the collecting of information with legitimate purposes, such as exposing corruption or alleging adverse behaviour. This is because the exposure of corrupt or adverse behaviour would harm the enforcement officer. Consequently, this bill would open the floodgates to corrupt or bullying officers, who would be able to intimidate members of the public who collected data with the intention of exposing the behaviour of those officers.

The level of corruption in the police force is periodically opened to the public's gaze with Police Integrity Commission inquiries and other investigations. Indeed, recently in the House I gave an example in which the actions of corrupt police officers had led to hardship for a number of individuals who are at their wits end trying to work out how to get justice after they have been charged or they have suffered in some way because of the actions of corrupt officers.

This is real, it does happen, and it is something that this House should address. We talk about victims of crime, but we should talk even more about victims of crimes that are perpetrated by corrupt police officers. This is not a law and order bill. It is not justice. It is at best incompetent, and at worst it would work to cover corruption in the police force or in other enforcement agencies. In many senses, it is a great leap backwards to the bad old days of endemic corruption and bullying behaviour by our police force.

The Greens will seek to amend this bill in Committee to ensure that proposed section 60C can never be used against individuals who are acting in the public interest or out of other legitimate motivations. I ask both the Government and the Opposition to consider this carefully. Our amendments propose only that individuals acting in the public interest be allowed to continue with that work and not be penalised by section 60C. Indeed, that would be the outcome if section 60C is allowed to go through unamended.

**The Hon. Rick Colless:** What is your amendment?

**Ms LEE RHIANNON:** The Greens amendment would restrict the wide-ranging nature of section 60C as it is now drafted, and I will explain that in more detail in Committee. The Greens have further reservations about the bill. The Law Society has cast doubt over the need for the other provisions of the bill. It has been suggested that protections and penalties already exist for many of the offences provide by this bill. The Law Society cites section 562AB of the Crimes Act, which prohibits stalking, and sections 35 and 59 of that Act, which provide for the offences in proposed sections 60A and 60B. When the Minister replies to this debate I ask him to explain why he believes it is necessary to create these offences when they are already adequately covered in other legislation.

The key provisions of this bill are proposed section 60C, which provides for corrupt behaviour, as I have explained, and proposed sections 60A and 60B, which are largely unnecessary. It appears that there is much wrong with this bill. While the Greens will attempt to resolve some of these problems by amendment, a more sensible approach would be for the Government to withdraw this bill and to make a more measured response to the problems of police officers and their families being harassed.

Although members often distort the position of the Greens, we acknowledge that police are harassed, and clearly that problem needs to be dealt with. However, members should take on board that this legislation is a smokescreen that hides either incompetence or other agendas. It is disappointing that the Opposition has been sucked in, particularly as the shadow Minister for Police is capable and thorough with his portfolio. I repeat: This bill does not serve the public purpose of ensuring that corruption and adverse behaviour are exposed and dealt with.

It is interesting to speculate why this House has been presented with such a poorly thought out piece of legislation. Is it that the Minister lacks the experience and managerial expertise to deal with such a difficult and demanding portfolio? Perhaps we might have some co-operation from the Opposition on that point so that we

get somewhere. Or is it that the Minister has spent too much of his first year in office chasing publicity at any cost and he has neglected the important but not so glamorous task of ensuring that his legislation is sensible, thorough, and protects the public interest and the interests of his police officers?

**The Hon. Greg Pearce:** We couldn't tell, anyway.

**Ms LEE RHIANNON:** We could not tell, but I am sure that if we look into it we will be able to determine his motivations. It will be a tragedy if the advances made in cleaning up the police force were to be lost in the Minister's headlong rush to feed his ambitions and drive.

**The Hon. Michael Costa:** This is appalling.

**Ms LEE RHIANNON:** I acknowledge the Minister's comment that this is appalling. He will have an opportunity to reply, and I look forward to his reply. The Minister's reply needs to be thorough because at the moment one aspect of this legislation is unnecessary because provisions in other legislation already provide protection.

**The Hon. Michael Costa:** That is not true.

**Ms LEE RHIANNON:** I acknowledge that it may not give protection to the full extent, but that is not what the Minister is doing. In this bill the Minister is taking away the legitimate right of people to track corrupt officers and officers who may be harassing members of the public. This bill does not serve a useful purpose. It will not provide much in the way of additional protection or safety to law enforcement officers and their families. All it will do is take us back to the dark old days—and no matter what is said in this place, we know that the dark old days were not too far away; and perhaps they are still with us to a greater degree than we realise—of corrupt police officers and bullying tactics used by our police officers.

**The Hon. Michael Costa:** Where is your evidence?

**Ms LEE RHIANNON:** Does the Minister read his briefings? Does he acknowledge that corrupt police officers are being regularly reported and investigated? He seems to be have a problem knowing how to handle that part of his portfolio and clean up the police force. So the Greens will oppose the bill, and oppose it most strongly.

**Reverend the Hon. FRED NILE** [9.58 p.m.]: The Christian Democratic party is pleased to support the Crimes Amendment (Police and Other Law Enforcement Officers) Bill, which is long overdue. Over the years I have had many complaints from police officers about threats directed against them, and their sense of helplessness in the face of those threats. As we know, almost all police officers must have unlisted phone numbers so they cannot be threatened at their homes. If their phone numbers were listed, they would receive threats at home. I know of a police officer who booked a drunken driver who was a prominent citizen. He was threatened that if he proceeded with the booking, this person would take action against him. I know of another officer who booked a drunken driver and later the driver came around to the rented house of that officer with an axe and threatened him. These are increasingly common experiences.

One might say there has been a change in the climate or culture in our society. In the past the police received much more respect in the community. Indeed, they only had to arrive at a particular incident—for example, a gang fight in a hotel—and order the people to cease fighting. Now police are not only quite often disobeyed; but sometimes they are thrown through the glass window of a hotel. It is necessary to have laws to strengthen the position of police officers. Young men and women will be deterred from joining the police force if they have no protection. It is worrying that there seems to be an increase in the number of young police officers who resign from the Police service early in their career. This bill will send a message to police officers that this Parliament and the Government totally support and protect them in carrying out their duties.

The recent attacks on restaurants in Chinatown appear to have been carried out by gangs seeking to extort large sums of money from the owners of the restaurants. It is a case that police are finding very difficult. It has made them think twice about pushing too hard to solve the case because the gangs might find out where they live and threaten their families. Police work in a difficult environment and need the protection that this bill affords them. Bomb threats have been made against them. An investigator was killed and others were injured in a bomb attack on the National Crime Authority office. These are very real events; the Minister for Police is not simply talking to stir up action. We need specific legislation to deal with such threats. Intimidation is

psychological warfare against an officer whose family is at home at night and vulnerable while he or she is on duty. I can understand why the wives of police officers want them to resign from the police service, but this legislation will show them that the Parliament and the Government give them full support.

Under this bill a person who assaults, stalks, harasses or intimidates a police officer while in the execution of his or her duty, whether on or off duty, will be liable to imprisonment for five years; if actual bodily harm is caused to the officer, the maximum penalty is seven years imprisonment; and if the officer is wounded or suffers grievous bodily harm, the maximum penalty is imprisonment for 12 years. The bill also extends coverage to police who are targeted simply because they are police, rather than because of, or in retaliation for, actions taken in the execution of their duty. We are pleased to support this bill.

**The Hon. PETER BREEN** [10.04 p.m.]: I believe that the Crimes Amendment (Police and Other Law Enforcement Officers) Bill is misconceived because it seeks to raise the bar on citizens who may have a legitimate concern about the way certain law enforcement officers carry out their duties. Police are public servants, after all, and although they are put under greater personal pressure than other government workers, they are specifically trained to deal with difficult situations so far as harassment and other forms of intimidation are concerned. Why draw the line at police officers? The list could include road workers, council officers, bus and train drivers, court staff, social workers or politicians for that matter.

**The Hon. Michael Gallacher:** Leave me alone.

**The Hon. PETER BREEN:** The Leader of the Opposition might be the subject of threats or intimidation. I frequently receive abusive phone calls for opposing the Government's law and order agenda. When I opposed the Greens euthanasia bill I was roundly booed and hissed. If I were to boo and hiss at a police officer carrying out his or her duty I would probably be arrested and charged with offensive behaviour. Perhaps I would be interfering with a police officer in the course of his or her duty. That is a serious offence and attracts a gaol sentence. The point is, police officers already have adequate protections against the conduct contemplated by this bill and it is fatuous to suggest that they need added protection. However, I concede that an argument can be made for extending additional protections to their family members. My remarks are therefore limited to the provisions of the bill that relate to law enforcement officers.

The Council for Civil Liberties made some interesting comments about the bill. In a media release dated 19 June 2002 the council said that the bill would prevent non-government organisations and individuals from monitoring the actions of corrupt police officers. One member of the Council for Civil Liberties told me he would have been obliged to throw out a whole filing cabinet on Roger Rogerson if the bill had been in place 10 years ago. No doubt Tim Anderson would have been in the same position as regards the police officers who tried to fit him with the Hilton Hotel bombing. In the same vein, I have been trying to establish that Stephen "Shorty" Jamieson has been stitched up by the police for the rape and murder of Janine Balding and the bill is a serious impediment to my inquiries.

Currently, I have an outstanding application to the Innocence Panel, an inquiry to the Police Integrity Commission, and another to the Ombudsman, and I have been in touch with the Premier's office as well as Commander Clive Small. Furthermore, I have written numerous letters to the Minister for Police and the Minister for Corrective Services about the circumstances surrounding the investigation and arrest of Stephen Jamieson. Needless to say, my inquiries focus on the police officers responsible for the murder inquiry. I have also written to the Director of Public Prosecutions, two referees, two hospitals, several lawyers and numerous witnesses who gave evidence at the trial of Jamieson. Few people would argue that my campaign to free Jamieson could be seen as harassment or intimidation of law enforcement officers.

Just last week, for example, I visited Jamieson in prison. I specifically wanted to give him a newspaper clipping about the progress of his case. Jamieson happened to be in solitary confinement for giving cheek to a prison warden. That is what one gets in prison for harassment or intimidation of a law enforcement officer. The officer in charge of the unit where Jamieson was confined refused to allow him to see the newspaper clipping until I left the prison. I am a patient man, but I blew a fuse over this arbitrary and capricious exercise of power by the prison officer. According to my reading of the bill before the House, if it were law last week I could be looking at a charge of harassment or intimidation of a law enforcement officer while in the execution of the officer's duty, with a maximum penalty of five years imprisonment. Even to ask a law enforcement officer for his or her name and rank could amount to intimidation or harassment.

As the Council for Civil Liberties stated in its press release, the bill undermines the right of ordinary citizens to monitor and comment on law enforcement officers. The bill needs to contain a public interest

defence, and should deal only with actual demonstrated harm to law enforcement officers. One of the fears I have with the bill is that police and law enforcement officers will use it as a weapon when it is clearly intended as a shield. The Minister in his second reading speech said that harassment and intimidation of law enforcement officers has the potential to pervert the course of justice. I agree with that proposition. However, it also needs to be said that justice will be perverted if law enforcement officers use this legislation to avoid scrutiny and accountability. Police officers, corrective services officers and public watchdogs are not above the law. They perform a very important public duty that happens to involve law enforcement. Justice demands that the work of law enforcement officers is transparent, since abuse of the power of law enforcement is perhaps the most cynical and perverse of all abuses of power. I cannot imagine a greater injustice than to be imprisoned for a crime I did not commit.

I conclude by saying that I have no wish to stand in the way of legitimate protections for the many good people who are involved in law enforcement in this State. Threats against police and their families, as outlined by the Minister in his second reading speech, are real and distressing. I simply wanted to make the point that protecting the rule of law and guarding against the abrogation of due process rights of citizens are also important features of a democratic society. Many of us have real concerns about the avalanche of new laws involving increased police powers, and it is difficult to know where to draw the line. Certainly, threats against police and their families are intolerable. However, if all the new police powers were exercised in New South Wales on any one day that is the day we would be living in a police State. I am therefore opposed to the bill.

**The Hon. CHARLIE LYNN** [10.11 p.m.]: We support the Government on this bill. I listened to the speeches of the Hon. Lee Rhiannon and the Hon. Peter Breen. They seem to work on the premise that every policeman in New South Wales is some sort of crook and has to prove otherwise. We can all relate examples of people who have been wronged by the law. There are processes for those cases. By and large, the police do a magnificent job. On the couple of occasions that I have required their help they have been absolutely professional in carrying out their work. When you need help and the pressure is on, it is great to have come to your aid somebody who has a sense of professionalism, training, experience and duty of service.

When the proceedings are over it is easy to analyse procedures and work out what matters to refer to the Police Integrity Commission, the Ombudsman, the Independent Commission Against Corruption and so on. But in the heat of the moment police often have to make decisions that may upset people. The Greens amendment would undermine the bill, because the amendment would mean that anyone could mount as a defence, "I thought they were crook, and I was checking them out." The police need support. Some people in our community now have no respect for police and their authority. Sometimes police are our last resort. On the weekend I met Frank Phillips at a State council meeting. He is about 80 years of age, and served our country with great distinction in World War II. He has about eight or 10 medals. He played tennis to Davis Cup standard, and just missed out on selection in the Davis Cup squad.

When I was in Singapore with the Anzac force Frank was the head of the public service there. He was a high-ranking civil servant. He had gone to the top of his profession in the civil service. He and his wife, Dorothy, now live on the Central Coast with their daughter and grandson. Frank has liver cancer and Dorothy is blind. They live in daily fear because a couple of 15-year-olds keep harassing them. Now when they ring the police, the police say, "There is nothing we can do." The last time that police attended they were interviewing Frank and his wife in the house when these young people brazenly went into the front of the house and took her wedding rings. This is causing extreme distress. I said, "As soon as Parliament gets up, I will come up and spend a day or two with you." I repeat: Frank is 80 years of age and has served his country well. All he wants now is a safe retirement. He wants to be able to walk down the street. They are prisoners in their house. This is not good enough.

**The Hon. Peter Breen:** The bill will not help them, Charlie.

**The Hon. CHARLIE LYNN:** You say that, but the police must have some authority. Some in our society know how much they can get away with and how much they can push the barrow. The police cannot do anything with them. These people know that if they lodge a complaint here or there, that will tie up the police. Rather than be faced with that, the police say, "I am not even going out there." Law-abiding citizens do not feel safe. This is a great State and a great country, and older people in particular should not have those fears. The Leader of the Opposition referred to the Constable Carty case. When I read about that, I was horrified that something like that could happen in Australia to someone who was protecting us.

Police need our legislative support to ensure they can do their duty without having to worry about their own personal safety. They too need time off duty. Their greatest fear is for the safety of their wives, husbands

and children, and their protection from people who would try to intimidate, stalk or otherwise harm them. The only comment I would make is: Why has it taken the Government so long to bring in this legislation to protect our police? Now that this bill is before the House, it will certainly have my support. We should not work on the premise that all police are crooks, because they are not. Police are a group of people we should be proud of. They do fine work under difficult circumstances. It is not until we are in difficulty that we appreciate what a fine police force we have. There will always be a rogue element in a large organisation whose officers are exposed to lawlessness on a daily basis. The systems that we have in place allow our community to address those concerns. I support the bill.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [10.17 p.m.]: The Government argues that section 60 of the Crimes Act 1900 is not sufficient to protect off-duty police and their families against threats, stalking, harassment and intimidation. The section does not extend to other law enforcement officers. After the murder of Constable David Carty, officers at Mascot police station were subjected to death threats against them and their families. It is also suggested that biker gangs involved in the drug trade have been known to create dossiers on officers and their family movements with a view to intimidating them. Officers of the New South Wales Crime Commission have also reported death threats and bomb threats. The bill seeks to extend the present offences relating to on-duty police to off-duty police. It also seeks to widen the category of persons who are protected by this legislation to those who work with the New South Wales Crime Commission, Police Integrity Commission, Independent Commission Against Corruption, Department of Corrective Services and Department of Juvenile Justice. It also extends protection to those who have a domestic relationship with a law enforcement officer.

One provision in the bill that has attracted the attention of the Law Society is new section 60C, which creates an offence of obtaining personal information about a law enforcement officer with the intention of using it to harm the officer. The offence carries a penalty of two years imprisonment. The Law Society suggests that this provision may prevent a person from asking an officer his or her name and badge number for a possible complaint to the Ombudsman, or to limit the collation of information against a corrupt officer. The amendment proposed by the Greens addresses those concerns and seeks to introduce a public interest test as a defence. We regard this as a reasonable amendment. So we support the bill, in order to support police, and we support the amendment, which we believe makes legitimate inquiries acceptable.

**The Hon. MICHAEL COSTA** (Minister for Police) [10.19 p.m.], in reply: I thank honourable members for their comments on the bill, in particular Opposition members, whose comments I noted. I support many of their observations. It is good to have a bipartisan approach to this serious issue. In response to a number of comments, it is important to set the record straight. The powers provided in the bill are not already covered in other Acts because other Acts do not extend to families. That is the clear advice that has been given to the Government and that is the reason the Government has introduced this bill. I find it quite ridiculous for somebody to compare the occupation of a train driver—which I practised for a number of years—with that of a police officer on the basis of harassment, stress and other pressures. I am not saying that train driving is not stressful—it certainly is—but no profession has the same likelihood of encountering a direct level of threats and intimidation as policing, except other law enforcement agencies.

I make it very clear that nothing in this bill restricts the requirement of a police officer to provide details such as the officer's name, and it is a furphy to suggest otherwise. There is also nothing in this bill that restricts other requirements in other legislation as far as procedures for police officers. It is important to ensure that police officers and other law enforcement officers and their families are protected from harassment, threats, intimidation and assault. As I said during the second reading stage, the request for this legislation came directly from police officers. This bill was not invented by the Government. I sat down with police officers, their union and representatives of other law enforcement bodies, and that is how we came up with this legislation. As I also pointed out during my second reading speech, this legislation emanated directly from the New South Wales Crime Commission, which I consulted. The commission has been involved in dealing with outlaw motorcycle gangs, and the activities I outlined during my second reading speech are real.

Officers from the Crime Commission outlined the types of threats that they had experienced in collecting information when dealing with that criminal element. The bill addresses real issues that affect real people, and I do not think that anybody would accept somebody being threatened by criminals and, more importantly, having their families threatened. That type of intimidation must be outlawed, and that is what the Government seeks to do by virtue of this bill. The intimidation of a law enforcement officer is an extremely serious matter. It has the potential to pervert the course of justice and causes officers and their families to live in fear. It goes without saying that intimidation adds to the burden that police officers and other law enforcement officers already carry as a result of their stressful jobs.

When threats against an officer's family are made, the effect on the family unit can be far reaching. I have spoken to officers who have had threats made against their families, and I assure honourable members that their concerns are heartfelt. Who would not be concerned when performance of duties has the consequence of one's family being threatened with horrific harm, such as the rape of one's children? That is a real example. The current provisions of section 60 of the Crimes Act need to be amended to offer adequate protection to off-duty police officers and their families. The bill will achieve that, but nothing in this bill prevents people from performing ordinary lawful duties. New section 60C makes it an offence to collect personal information on a police officer with the intention of using the information to assault, stalk, harass, intimidate or harm the officer.

Nothing in this bill prevents investigative journalists, for example, from collecting information on police officers, and the bill does not prevent the Ombudsman and the Police Integrity Commission from investigating police officers. I would have thought that the logical bodies to be investigating police misconduct would be the Ombudsman's office and the Police Integrity Commission rather than private citizens. I strongly recommend to members of the public who have information, that they refer that information to those bodies, and I assure honourable members that there is nothing in this bill that prevents those bodies from undertaking the required investigations. Moreover, the very examples of police corruption that Ms Lee Rhiannon cited are actually examples of activities that have been investigated by the Police Integrity Commission. I sometimes wonder what lies behind opposition to this legislation. I think that most reasonable people regard this bill as a sensible way of protecting people who are doing a very difficult job.

Neither investigative journalism nor any related activity can reasonably be said to be carried on for the purpose of assaulting, stalking, harassing, intimidating or harming an officer. It is important to note that a court will not find that a person who is collecting information for such ordinary activities has the necessary intention to prove an offence because their intention is to find out the truth and expose what they perceive to be wrongdoings or corruption. There is no intention to harm the officer, and intention is a necessary element if the legislation is to come into play. The bill is designed to offer police officers better protection from criminals who attempt to target police and their families for revenge or to influence the process of justice. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time.**

### **In Committee**

**Clauses 1 to 4 agreed to.**

### **Schedule 1**

**Ms LEE RHIANNON** [10.26 p.m.]: I move Greens amendment No. 1:

Page 7, schedule 1. Insert after line 11:

- (2) It is a defence to an offence under this section if the defendant satisfies the court that the defendant reasonably believed that, in obtaining the information, he or she was acting in the public interest, for example, for the purpose of exposing corruption or other wrong conduct by the law enforcement officer.

When listening to the debate, I certainly noticed that members of the major parties are strongly committed to this legislation. I acknowledge that at the outset before I argue my case in favour of this amendment because my amendment does not take out or materially change the provisions of this bill. My amendment adds a provision to address the gathering of information on law enforcement officers. I put it to the Committee that this amendment is most worthy of support on the ground of public interest. The bill deals with the collection of information on police officers who may be acting unlawfully.

The Greens amendment will safeguard people who are collecting information because they believe there is a problem with the way in which a police officer is carrying out his or her work, which necessitates some checks and perhaps a case being made out against that officer. The Minister addressed that point during his reply and attempted to strengthen his reasons for this legislation by saying that if there is no intention of harming the police officer, we do not have a problem. The Greens argue that there is a problem because of the definition of the word "harm", which has not been clarified. Both the Law Society and the Council for Civil Liberties have expressed great concerns about the bill as it presently stands.



We believe that the concerns of the Law Society and the Council for Civil Liberties are legitimate. I put to members that they can continue to support the legislation and achieve the objectives set out in the bill about which they feel very strongly, and at the same time support our amendment, which will include that safeguard. The amendment will not in any way interfere with what the legislation is trying to achieve. I urge members to support our amendment. Although, clearly, many of us have different points of view, the amendment will strengthen the legislation, which is supported by the major parties, and provide a safeguard for organisations that work on justice issues.

The Minister argued that the legitimate bodies to deal with corruption are the Independent Commission against Corruption, the Ombudsman and the Police Integrity Commission. Non-government organisations and not-for-profit organisations that make worthy contributions in many areas, including the justice area, are part of the rich fabric of Australian society. Their monitoring of justice systems and the police force is very important. Those organisations will be hard hit if proposed section 60C is not amended as the Greens propose. I commend our amendment to the Committee.

**The Hon. RICHARD JONES** [10.31 p.m.]: If the Minister is fair dinkum and believes in what he says, he will support this obviously harmless amendment. However, if there is something more sinister about it, he will not support it. We also have had consultation with the Law Society and the Council for Civil Liberties, which have expressed concerns that the bill could inhibit the operations of the Police Integrity Commission, the Ombudsman or anyone else who monitors police. An important part of the ongoing campaign against police corruption is the monitoring of police by non-government organisations and individuals. If a person stores personal information about the duties of a corrupt police officer and that causes the officer to take stress leave, then that person could be sentenced to two years imprisonment for causing the officer harm.

It has been argued that the bill undermines the right of ordinary citizens to monitor and comment on police. If an organisation or individual cannot gather information about police and their conduct, it is virtually impossible to comment on police action or hold them accountable for their actions. The Law Society expressed concern about the restriction of obtaining information about law enforcement officers because it could prevent people from asking for officers' names and not badge numbers, limit the gathering and collation of information about alleged corruption and, in turn, limit the ability of people to make a complaint to the Ombudsman, or pass on information about corruption to the Police Integrity Commission or the ICAC. The amendment should be supported. If the Minister is fair dinkum and if this bill is genuinely harmless, as the Government believes, he will support the amendment. I would love to know why the Minister will not support the amendment.

**The Hon. MICHAEL COSTA** (Minister for Police) [10.33 p.m.]: The Government cannot support the amendment because it undermines the bill. I have already gone through the arguments. There are adequate protections. For all the issues raised we cannot support the amendment.

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [10.33 p.m.]: Proposed section 60C clearly refers to the person who obtains personal information for the purpose of assaulting, stalking, harassing, intimidating or otherwise harming a police officer. The police have to prove their case before they can proceed with a charge. Any allegations about the person's propriety, how the person conducts himself or herself if that person is conducting some sort of surveillance on a police officer, will come out in the court hearing. The amendment is nothing more than an attempt by a number of crossbench members to appeal to the civil rights people who are trying to introduce one little amendment that will destroy the effect of the legislation. Ms Lee Rhiannon is getting mixed up with surveillance. That is not stalking or harassing, because stalking or harassing has to be experienced physically by the person. If she thinks that a police officer would become involved in criminal conduct while being stalked or harassed, then she is an absolute fool. A police officer would not act in a corrupt manner if the officer knew that he or she was under surveillance. Therefore, the officer is not being stalked or harassed in the process. It is a pretty clear distinction.

**The Hon. PETER BREEN** [10.34 p.m.]: A lot of people have had a bad experience involving either the police or the legal system. They have a genuine axe to grind and they do it in a way that often could be construed as intimidating or harassing police officers. They become obsessed. They become paranoid about their problem. Under this legislation people in that position could be easily targeted. I suggest that this amendment offers them an opportunity for a defence that they otherwise would not have under the legislation. If they are genuinely concerned about a particular corrupt activity and they are acting genuinely in the public interest, they ought to have the protection of this amendment.

**Question—That the amendment be agreed to—put.**

**The Committee divided.**

**Ayes, 7**

Mr Breen  
 Dr Chesterfield-Evans  
 Mr Corbett  
 Mr R. S. L. Jones  
 Dr Wong  
*Tellers,*  
 Mr Cohen  
 Ms Rhiannon

**Noes, 24**

Ms Burnswoods	Mr Gay	Mr Samios
Mr Colless	Mr Harwin	Ms Tebbutt
Mr Costa	Mr Hatzistergos	Mr Tsang
Mr Dyer	Mr M. I. Jones	Mr West
Mr Egan	Mr Lynn	
Ms Fazio	Reverend Nile	
Mrs Forsythe	Mr Pearce	<i>Tellers,</i>
Mr Gallacher	Mr Ryan	Mr Jobling
Miss Gardiner	Ms Saffin	Mr Primrose

**Question resolved in the negative.**

**Amendment negatived.**

**Schedule 1 agreed to.**

**Schedule 2 agreed to.**

**Title agreed to.**

**Bill reported from Committee without amendment and report adopted.**

**Third Reading**

**The Hon. MICHAEL COSTA** (Minister for Police) [10.43 p.m.]: I move:

That this bill be now read a third time.

**The House divided.**

**Ayes, 25**

Ms Burnswoods	Miss Gardiner	Mr Ryan
Dr Chesterfield-Evans	Mr Gay	Mr Samios
Mr Colless	Mr Harwin	Ms Tebbutt
Mr Costa	Mr Hatzistergos	Mr Tsang
Mr Dyer	Mr M. I. Jones	Mr West
Mr Egan	Mr Kelly	
Ms Fazio	Mr Lynn	<i>Tellers,</i>
Mrs Forsythe	Reverend Nile	Mr Jobling
Mr Gallacher	Mr Pearce	Mr Primrose

**Noes, 6**

Mr Breen  
 Mr Cohen  
 Mr R. S. L. Jones  
 Mr Corbett  
*Tellers,*  
 Ms Rhiannon  
 Dr Wong

**Question resolved in the affirmative.**

**Motion agreed to.**

## ADJOURNMENT

**The Hon. MICHAEL EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.51 p.m.]: I move:

That this House do now adjourn.

## AUSTRALIAN WORKPLACE AGREEMENTS

**The Hon. IAN WEST** [10.51 p.m.]: Section 170 of the Workplace Relations Act 1996 states that any proposed Australian workplace agreement [AWA] must pass the no-disadvantage test to be approved. I have an email from an officer from the Office of the Employment Advocate dated 1 May which clearly states that AWAs coming from a certain company are to be passed without application of the no-disadvantage test. Proposed AWAs from specified partners are now just rubber stamped. Some bargaining agents know of their specified partner status, allowing them to sell themselves to business as a road to guaranteed AWA approval. Agents operate free from scrutiny and accountability, and it is proving to be a very lucrative scam at \$1,200 per worker. A former senior manager from the Western Australian OEA has recently joined an industrial relations firm as a consultant, and—surprise, surprise—since then the firm has become a specified partner. Specified employers and partners are engaging in pattern bargaining. They simply draft a template AWA and force it on workers in various industries.

Other forms of abuse from the Howard Government's industrial gestapo include, firstly, no requirement for an AWA to provide for a pay rise. AWAs do not take into consideration award wage rises through national or State wage cases during their term. Secondly, AWAs are taking advantage of itinerant work forces. AWAs can state, for example, that a cleaner can be paid \$5 per hour in the first year, \$6 in the second and \$50 in the third—such an AWA would pass the no-disadvantage test simply because of the huge pay rise in the third year. However, a business can sack a worker at the end of the second year, and the AWA can classify workers as casual, thereby excluding them from many unfair dismissal laws.

Third, the no-disadvantage test is conducted on the basis of figures expressed in the part 2 form attached to a proposed AWA. Employers accordingly have a part 2 form drafted to pass the no-disadvantage test even though the actual AWA would not. Fourth, the OEA has passed AWAs where workers are paid less than the award on the basis that those workers are entitled to some free food and drink whilst working. Fifth, AWAs with trainee workers are allowed to provide 20 per cent less than award rates. Employers are creating bogus traineeship schemes. One recent example is that of the OEA approving an AWA covering a worker in a video shop. The traineeship—do not forget this is a video shop we are talking about—is for 30 months, 2½ years, at 10 hours a day. That was approved by the OEA.

Sixth, the OEA is currently breaching the Act by deeming it no longer necessary for a worker to be sent a genuine consent letter. The justification is that three years ago when the workers consented to an AWA they were told of their rights and accordingly they do not need to be told again. Employers are in the habit of telling new workers that an AWA already exists in the workplace. How can the OEA be satisfied that genuine consent has been given if the worker has not been sent the genuine consent letter? The OEA does not even bother to check that the worker previously had an AWA. The seventh problem relates to illegal clauses. The Act is silent on the OEA having a duty to reject a proposed AWA on the basis that a term of the agreement requires someone to do something illegal. Countless AWAs operate today providing for illegally low superannuation.

The eighth breach concerns the OEA approving AWAs where the employer involved is not a valid party to the so-called agreement—for example, a local council, or a partnership. But the OEA philosophy is to pass as many AWAs as possible whether they are constitutionally valid or not. The OEA is systematically breaching the Workplace Relations Act 1996. If the OEA does not do its job properly then workers suffer. The OEA must be open and accountable or be reformed or abolished. AWAs currently are drafted, negotiated and approved in secret. Section 83 states that the Governor-General may terminate the advocate for misbehaviour, incompetence or inefficiency. All three are in generous proportions with the OEA.

## DEATH OF THE HONOURABLE DOUGLAS FREDERICK MOPPETT, A FORMER MEMBER OF THE LEGISLATIVE COUNCIL

**The Hon. DON HARWIN** [10.56 p.m.]: This afternoon, in order to meet the Government's convenience, Liberal members, apart from the Leader of the Opposition, did not speak on the condolence motion for the Hon. Doug Moppett, so I take this opportunity in the adjournment debate. I am probably closer in

age to Warwick and Peter Moppett than to their father. Indeed, I am the youngest member of the House. Nevertheless, I felt a great deal of affection for Doug Moppett. When I was watching him I got the sense that I was getting a glimpse of the Legislative Council in a former time. I say that with no sense of disrespect or in any way to detract from the contribution he made.

One thing that perhaps was not picked up in debate today was the fact that Doug Moppett was the last appointed member of this Chamber—the last person still serving who originally came to this place as an appointed member. All members here now were democratically elected after the post-1978 reconstitution. In our long history this Chamber has seen many changes—from a small advisory Chamber comprising mainly colonial civil servants, and then elective and advisory until 1856. From then until relatively recently, as the House of review, we had many fine members, usually part-time, representing a wide range of interests. As well as the trade union movement, the Sydney business community and the bar, there were many from a landed background representing the wealth-creating primary producers who contributed so much to the prosperity of New South Wales as a colony and a State.

As an appointed member Doug initially came to this House as part of that tradition. I like to think that in the way he conducted himself as a parliamentarian through his work on committees and in debate in this House he affirmed the legacy those former members leave to us as a House of review. Doug had a magnificent sense of proportion but he also understood the traditions of the House and worked to protect what was of value. I think his last speech, on the recent no-confidence motion, was a fitting epitaph for the Hon. Doug Moppett because he was able to record so much of what he cared about in terms of this House in his typically eloquent prose. Although serving with him here for just three years, I knew Doug for at least 12 years, stretching back to my time as assistant campaign director of the Liberal Party secretariat. At that time I met Doug in his capacity as National Party chairman while negotiating the 1990 redistribution of State electoral boundaries, along with his general secretary, the Hon. Jennifer Gardiner.

At that time I was working with Peter King, our party President. It was an absolutely appalling job—the typical hospital pass that one gets in politics every now and then, a 10-seat reduction in the size of the House. Many have debated whether it was the right thing to do. I still firmly believe that it was the only thing that saved the Government from being a one-term government. Through all of that, Doug was incredibly cordial, pleasant and charming, while being an extremely effective advocate for his party. In fact, so cordial was the relationship between the Liberal Party President and the National Party Chairman at the time that Peter King became part of Doug Moppett's Wednesday morning tennis circle at Cooper Park. Peter King, now the member for Wentworth, remembers Doug with particular affection and wishes to be associated with remarks about him in this House.

Our colleague the Leader of the Government spoke about Doug's role in the "Joh for Canberra" push and the importance of that for the eventual success of the Howard Government. Given the proximity of all those events to the 1988 State election, unarguably far more significant in 1986 and 1987 was the work Doug did to settle down the National Party organisation and ensure that we maintained an extremely effective Coalition in this place as we went into the 1988 State election. The funeral last Friday was an incredible experience. Our colleagues the Hon. Jennifer Gardiner and the Hon. Jan Burnswoods told us about Doug's caring for the bush by being able to see what is a very drought-affected part of the State—*[Time expired.]*

### INTERNATIONAL DEMOCRAT UNION

**The Hon. MALCOLM JONES** [11.01 p.m.]: The object of every democracy must surely be to improve the standard of being of all citizens. Those who believe this is best served by the politics of private enterprise, personal incentives and initiatives, freedom of the individual liberal democracy, and free trade will surely applaud the Australian Prime Minister, John Howard, being appointed as Chairman to the International Democrat Union. Prime Minister John Howard was elected Chairman for a three-year term in June this year, replacing the Rt Hon. William Hague, MP. The International Democrat Union [IDU] is a working association of more than 80 centre and centre right political parties from more than 60 countries around the world. It is a low-profile group founded in 1983 by former British Prime Minister Margaret Thatcher, then Vice-President George Bush Senior, Jacques Chirac, now President of France, Chancellor Helmut Kohl and many other party leaders.

The IDU provides a forum in which political parties holding similar beliefs can come together and exchange views on matters of policy and organisational interest, so they can learn from each other, act together, establish contacts, and speak with one strong voice to promote democracy and centre-right policies around the globe. Countries can only develop their full potential if they develop recognising the ideals of liberal democracy, freedom of the individual, and the need for economic growth to be based on individual initiative and free, competitive enterprise economies.

Meetings of party leaders are held every three or four years. Apart from executive meetings, the IDU holds annual events such as the Young Leaders Forum, plus projects like special visits to Zimbabwe. A major event is also held every four years to coincide with the Republican Convention. The IDU also organises campaigning seminars for politicians and party workers. These involve exchanges of information on campaign technology, fundraising techniques, opinion polling, advertising and campaign organisation. The IDU plays an essential role in enabling like-minded, centre-of-right parties to share experiences in order to achieve electoral success.

Party leaders met in Washington on 10 June 2002 to reaffirm their global alliance. The parties expressed their strong support for United States President George W. Bush in the global war against terrorism. This international forum has the potential to be the strongest international political forum ever. Many will disagree with the comments I have made so far. Many will not like the prospect of the IDU's existence or effectiveness. Many will not like the politicians involved in the IDU. However, the existence and co-operation of the IDU cannot be denied. I also believe the potential for national wealth creation is better enhanced with the direction that can be offered by this group.

The Thatcher years in Great Britain were painful and difficult. However, as a spectator of the living conditions of the people of Great Britain and a regular visitor, I have to say that the reforms made during the Thatcher years have enabled Great Britain to raise its standards of living considerably. For example, in comparison with our economy, in 1980 \$A1 bought £0.58; today, \$A1 buys £0.38. To measure the comments I have just made in financial terms, the purchasing power of the pound compared with our currency has increased 50 per cent in 20 years, all due to Thatcher's reforms. Prior to Margaret Thatcher, between 1960 and 1980 the country had been largely Labour dominated and living standards were generally in decline, as illustrated by the fact that in 1966 \$A1 bought £0.50 sterling. Much can be learned from both the Thatcher reforms and the IDU.

### HEPATITIS C

**The Hon. JAN BURNSWOODS** [11.06 p.m.]: Today I said quite a lot about Doug Moppett in speaking to the condolence motion. The examples I gave of Doug's work on the Standing Committee on Social Issues made me think of an obligation that members of the social issues committee have taken to maintain a monitoring role on some of the reports we have written. It is therefore appropriate that I quote from the latest issue of "The Hep C Review". I would like to start by quoting a striking comment on the cover of that publication:

If crime rates suddenly rose by 45 per cent, police ministers would hold crisis meetings and task forces would be convened to address the situation.

We've seen hepatitis C cases rise by 45 per cent and we ask, what will it take for our community to arrest this epidemic.

That is the main issue that the social issues inquiry I referred to earlier today dealt with. I wish to refer to a few points raised in the editorial of the latest issue, which is headed "Hepatitis C—Where are we? Where are we going?" Hepatitis C was only identified in 1989. For that reason, there has been considerable difficulty working out how many people in Australia are affected by the disease and therefore treating them. There are now more than 150,000 Australians known to be affected by the disease, and it is estimated that an additional 11,000 new infections occurred each year during the 1990s. Escalating rates of HCV infection will have enormous consequences, as 10 to 15 per cent of people infected have the potential to progress to end-stage liver disease, with all the implications that has for health care services in the years ahead.

The editorial goes on to make a number of comments about the progress that has been made in the handling of the hepatitis C epidemic. For example, in 1994 and 1997 the National Health and Medical Research Council published two major reports on the subject. NSW Health has held successful hepatitis C awareness weeks in 2000 and 2002, which have increased public awareness of many issues relating to HCV. NSW Health recently released a treatment and care plan for HCV, which, among other things, emphasises the importance of general practitioners in evaluation and management of HCV-infected people. Another area that is being discussed is the possibility of accrediting appropriately trained general practitioners to prescribe antiviral therapy for HCV.

The editorial states that the recent report by the Anti-Discrimination Board of New South Wales on hepatitis C-related discrimination presents compelling evidence that there is still much to be done if we as a society are to be seen to be caring and rational in dealing with the disease. A number of important pieces of work being done at the moment. For example, the HCV Projections Working Group of the Australian National

Council on AIDS, Hepatitis C and Related Diseases, which advises the Federal Minister for Health on these diseases, will report later this year on the increasing rate of HCV acquisition, highlighting the imperative of improving our prevention strategies.

Things are not all bad, things are happening. However, as the article makes very clear, there is still a great deal to be done. All of this has to be seen in the context that treatment availability and efficacy remains very problematic for people with hepatitis C. Certainly treatments are available but some combination therapies are very unsatisfactory for some people. There is still a long way to go in finding good treatments. However, it is good for the members of the Standing Committee on Social Issues to see that the hepatitis C council has noted that progress is being made in providing better services for prison inmates amongst whom there is a high prevalence of hepatitis C infection.

In the past, inmates' access to therapy has been limited, but in New South Wales and elsewhere the appointment of specialist Corrections Health Services is changing. Prevention strategies are being implemented. The recommendations made four years ago in the report are now happening, including bleach being made available in most prisons and methadone programs being expanded in some places. However, needle and syringe programs are still not available. This area still needs a great deal of work, and I feel some responsibility for this. I try to keep in touch with the work of the hepatitis C council.

### WORKCOVER DEFICIT

**The Hon. GREG PEARCE** [11.11 p.m.]: Last week I raised the intriguing notion of "targets mainly achieved", which had been introduced to actuarial practice by the senior managers of WorkCover. I also noted the Government's attempt, until we caught it out, to spin the line that WorkCover changes would produce a one-off retrospective reduction in the WorkCover deficit of \$1.33 billion. This was essential if the Government was to be able to push the line which Ms McKenzie, the WorkCover General Manager, asserted in November 2001, that:

... the reform package would in fact arrest the deterioration of the scheme to the point where it either stabilised or reversed.

Previously I have spoken about the evasive and disingenuous evidence of Ms McKenzie and Mr McInnes of WorkCover to the WorkCover inquiry, especially in relation to "targets mainly achieved". Indeed, on 6 March, after the WorkCover actuary Mr Finnis made it plain that the \$1.33 billion was only a calculation based on WorkCover's "targets mainly achieved", which Tillinghast had included in its report, Mr Finnis stated:

... that we were doing a service for our client in illustrating that figure. I think that is probably the best way to look at it.

He was referring to Tillinghast. Ms McKenzie claimed:

I am not sure that I would agree with some of the suggestions that there was one set of targets that were our targets ... Our view was that the more likely outcome was the more optimistic scenario and they, as actuaries are wont to do, took the more pessimistic view of what they thought the outcome is going to be, but that is not to say that somehow we had different targets.

WorkCover did have targets, and what were they? Finally, when we were given answers to questions on notice by WorkCover the targets that the WorkCover senior officers had so much trouble remembering when giving evidence to the committee were set out in less than one page. WorkCover's answer was:

The targets in the relevant scenarios refer to:

#### Statutory Claims

The targets set out in relation to statutory claims are as follows:

- Reducing the number of disputes over statutory claims by half to approximately 15,000 a year.
- Resolving approximately 80% of the disputes through conciliation, assessment and medical assessment.
- No more than 2,000 statutory benefit matters per year proceeding to determination.

#### Common Law

The target performance for the Common Law system was set so as to be consistent with that of the Motor Accidents Scheme:

- 90% of Common Law matters should be resolved through assessment, with only 10% of matters proceeding to Court.

When the unions have had a look at these targets they may well question the Minister's claim that no worker would be worse off under the Government's changes to the WorkCover scheme. The Minister, of course, having been caught out, has ceased making any claims that he can bring the deficit under control. What of the great WorkCover actuarial breakthrough of targets mainly achieved? The actuaries reverted to a true range in their report on the deficit valuation as at 31 December 2001. They reported the central figure, their valuation, and they put in a range of potential outcomes. The higher savings range was WorkCover's good old "targets mainly achieved", which shows that the deficit will continue to increase.

For balance, this time the actuaries showed what they called a "reformed compromise scenario", which assumes poor implementation of the reforms. Given WorkCover's record of management, or mismanagement, of the WorkCover scheme so far, this deserves consideration. The actuary's report in relation to the valuation of the deficit of the WorkCover scheme as at 31 December 2001 stated that the deficit was \$2.558 billion and is projected to rise to \$3.917 billion by June 2006. Under the "targets mainly achieved" WorkCover scenario, the deficit was still \$1.893 billion in December 2001.

Under the reform compromise scenario, the other end of balancing the report, the deficit was projected to blow out to \$5.866 billion in June 2006. That is the real range of the likely outcomes of the Government's so-called WorkCover reforms. Therefore, the deficit is unfunded and continues to be kept off the State budget, thus threatening the prosperity and future of this State.

### **M5 EAST EXHAUST STACK HEALTH IMPACTS**

**Ms LEE RHIANNON** [11.16 p.m.]: In the past few years many of us have assisted the organisation Residents Against Polluting Stacks [RAPS], which is based in the south-western suburbs. The organisation has pushed for the M5 East stack to be ventilated and for measures to be taken so that its emissions do not pollute the surrounding air, or indeed the air over all of Sydney. The Greens very much commend the work of RAPS. It is important that we recognise that it is continuing its fight, despite the opening and operating of the M5 East, unfortunately to the detriment of the health of the people in that region.

The monitoring stations are not yet recording, but there have been numerous complaints about ill-health and smells since the opening of the M5 East. Couriers and taxidriver's have told me they avoid using the tunnel. Often drivers in the tunnel cannot see clearly ahead because of the haze, and that air is then spewed out into surrounding suburbs. In mid-April a public meeting was attended by about 200 people. Many people said they had experienced an increase in sore eyes, sore throats, headaches and asthma. A number of individuals with existing conditions have reported worsening symptoms. People have kept diaries, and an analysis of diaries and monitoring data by Dr Best, from Katestone Scientific, has shown a number of correlations of symptoms with periods of low fan speeds at night and wind directions.

Many tunnel users have complained about the air quality inside the tunnel, which seems to regularly have unusually heavy congestion, in spite of the fans running at a much higher level than originally planned. In total they are running 40 per cent higher, in spite of significant periods when the vent fans at Turella have been turned off. Despite claims by the Roads and Traffic Authority that the in-tunnel conditions are safe and meet the regulations, those conditions relate to visibility rather than health. Particle levels inside the tunnel are five to six times more than the occupational health and safety eight-hour time-weighted average for respirable dust, and as much as 20 times the suggested limit for eight-hour exposure to diesel exhaust particles. That is, more than one journey through the tunnel per day would lead to excessive exposure to those pollutants.

We are talking of damage to the health of residents of the surrounding suburbs and also to the health of people using the tunnel, particularly the many who regularly use the tunnel, such as courier drivers and taxi drivers, as well as the people who may take two journeys through the tunnel each day to get to and from their place of work. It is an issue of growing concern because of the number of people impacted upon. In-stack monitoring shows that particle emissions are 20 per cent to 50 per cent higher than predicted, with up to 40 kilograms per day emitted, instead of the expected maximum of 26 kilograms. This is in line with the CSIRO modelling, which was vehemently contradicted by the Roads and Traffic Authority [RTA] at the time. Unfortunately, the RTA has been single-minded in the way it has conducted its work around the M5 East, particularly with the construction of the stack. It has considered only vehicle movement and not people's health.

Under the conditions of approval the RTA was required to record and deal with public complaints. This was grudgingly established at the end of May but inappropriately hidden in advertisements in local media. When people ring the RTA the operators are often unsure of the procedure to deal with complaints and attempt to sway the complainants with suggestions that they are imagining symptoms or that they may be due to things such as wood smoke from rural areas or flu injections or that they may be "hormonal, dear".

**The Hon. John Jobling:** What a joke!

**Ms LEE RHIANNON:** Yes, what a joke. It is unbelievable. When the RTA is asked what it proposes to do as a result of the complaints, the response so far has been "record it". There seems to be no other proposed course of action, and that is against the agreed protocol. The Greens commend the work of RAPS and we call on the RTA to start communicating with local people and working with RAPS to solve the problem and clean up the stacks.

**Motion agreed to.**

**The House adjourned at 11.21 p.m.  
until Wednesday 26 June 2002 at 10.00 a.m.**

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