



**NEW SOUTH WALES**



*Legislative Assembly*

**PARLIAMENTARY  
DEBATES**

**(HANSARD)**

**FIFTY-FIRST PARLIAMENT  
THIRD SESSION**

**OFFICIAL HANSARD**

**Tuesday, 26 May 1998**

# LEGISLATIVE ASSEMBLY

Tuesday, 26 May 1998

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**Mr Speaker (The Hon. John Henry Murray)** took the chair at 2.15 p.m.

**Mr Speaker** offered the Prayer.

## BILLS RETURNED

The following bill was returned from the Legislative Council without amendment:

State Records Bill

The following bill was returned from the Legislative Council with amendments:

Public Authorities (Financial Arrangements) Amendment Bill

## MINISTRY

**Mr CARR:** In the absence of the Minister for Police I will answer questions relating to his portfolio. The Minister for Education and Training will act as Leader of the House.

## NATIONAL SORRY DAY

### Ministerial Statement

**Mr CARR** (Maroubra—Premier, Minister for the Arts, and Minister for Ethnic Affairs) [2.17 p.m.]: This morning at Government House, altogether a most suitable location, there gathered representatives of the stolen generations. I attended along with the Governor, the Leader of the Opposition, the Minister for Aboriginal Affairs and the shadow minister for Aboriginal affairs. Together, speaking for the people of New South Wales, we repeated the apology that had been made in this House last year on no less than two occasions for the forced separation of Aboriginal children from their parents on the grounds of their race. The Parliament of New South Wales was the first parliament to make that apology. The same bipartisanship was reflected in the act of apology that was part of the Sorry Day commemorations this morning. I say unequivocally that it is a great thing that there has been bipartisanship on this matter in this Parliament, and that sends a very powerful message across Australia.

Since the release of the report entitled "Bringing them home" there has been plenty of

national soul-searching. Never before have Australians had an opportunity like this to come together and extend a hand to Aboriginal people who were traumatised by forced separation from their family. I said today that this act of apology enables us to go forward together into the next century as a united people. The Leader of the Opposition, speaking for the coalition, this morning reaffirmed his commitment, the coalition's commitment, to this act of apology; reaffirmed his commitment, the coalition's commitment, to participating in this National Sorry Day. The message is very clear: this Parliament is united in saying sorry and in expressing the wish that as a united people—black and white, the original old Australians and those produced by the successive waves of immigration since 1788—we can go forward together.

**Mr COLLINS** (Willoughby—Leader of the Opposition) [2.20 p.m.]: I acknowledge what the Premier has said about a fairly rare bipartisan gesture coming from the oldest Parliament, the first Parliament, in Australia. It is rare but fitting for both sides to join together on an occasion such as this. I look forward to speaking on a motion to be moved by the Government following question time today. I will reserve further comment until then.

## DISTINGUISHED VISITOR

**Mr SPEAKER:** I acknowledge the presence in the gallery of Emmett Burns, a distinguished member of the Maryland House of Delegates in the United States of America. I welcome Emmett and his wife. Members who follow the Sydney Kings will know that a famous son of Emmett resides in Sydney.

## BUSINESS OF THE HOUSE

### Order of Business

#### Motion by Dr Refshauge agreed to:

That standing and sessional orders be suspended to allow Government Business Notice of Motion No. 12 (National Sorry Day) to take the place of motions for urgent consideration this day, and that the following time limits apply:

Mover	10 minutes
Member next speaking	10 minutes
Two other members	10 minutes
Eight other members	5 minutes
Reply	5 minutes

## ALBERT NAMATJIRA PAINTING

### Ministerial Statement

**Mrs LO PO'** (Penrith—Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women) [2.24 p.m.]: This morning I had the privilege of righting one small wrong on behalf of the people and the Government of New South Wales. In 1958 the great Australian artist Albert Namatjira visited the Cootamundra Girls' Home, a so-called training centre at which Aboriginal girls—stolen from their families—were taught to forget their own people, history and culture, and trained to work for white families, essentially as domestic servants. Albert Namatjira was the first Aboriginal man most of these girls could remember seeing—a matter that should shame us all. He gave the girls one of his original landscape paintings, and for the next decade it hung in their dormitory.

When the centre closed in the late 1960s the painting was taken into safekeeping by departmental officers. In fact, they pinched it and installed it in the central office boardroom. The painting is the only remaining tangible trace of the time spent by the girls at Cootamundra. For them it symbolises their lost—perhaps I should say stolen—heritage. However, it too was taken from them, along with their families and their childhoods. In recent times the painting was recognised by Ms Lola McNaughton on a visit to the Department of Community Services. Soon after my appointment as Minister I was asked what I thought should be done with the painting. I had no hesitation in saying, "It belongs to them. Give it back."

This morning on National Sorry Day I was delighted and proud to officiate at a ceremony to do just that. I am proud also to be a member of the first government in Australia to apologise to our Aboriginal people for the atrocity of the stolen generations. As an Australian citizen I am dismayed that our Federal Government and Prime Minister cannot find it in their hearts to acknowledge the wrongs of the past on our behalf and express the sorrow that is felt by all humane people.

**Mr HAZZARD** (Wakehurst) [2.26 p.m.]: The Opposition will not become involved in partisan politics on Aboriginal reconciliation. I ask members on both sides of the House to recognise that in this

regard the Parliament has taken major steps forward, and the Premier has spoken about those. Shortly, members will debate in a non-partisan way, a motion on the issue of Aboriginal reconciliation. If the Minister believes that her action this morning was truly in the interests of reconciliation, of course the Opposition supports that action and awaits with interest further comments in debate on the motion later this day.

## PETITIONS

### Governor of New South Wales

Petitions praying that the office of Governor of New South Wales not be downgraded, and that the role, duties and future of the office be determined by a referendum, received from **Mr Blackmore, Mr Brogden, Mrs Chikarovski, Mr Collins, Mr Debnam, Ms Ficarra, Mr Glachan, Mr Hartcher, Mr Hazzard, Mr Humpherson, Dr Kernohan, Mr Kerr, Mr Kinross, Mr MacCarthy, Mr Merton, Mr O'Doherty, Mr O'Farrell, Mr Photios, Mr Richardson, Mr Rozzoli, Mr Schipp, Mr Schultz, Ms Seaton, Mrs Skinner, Mr Smith and Mr Tink.**

### Ryde Hospital

Petition praying that Ryde Hospital and its services be retained, received from **Mr Tink.**

### Land Tax

Petitions praying that land tax on the family home be repealed and that the land tax threshold on investment properties be doubled from \$160,000 to \$320,000, received from **Dr Macdonald and Mrs Skinner.**

### Central Coast Crime

Petition praying that, because of the increase in the incidence of crime on the central coast, courts impose tougher penalties and that adequate policing be made available to the region, received from **Mr Hartcher.**

### Police and Community Youth Club Movement

Petition praying that the removal of dedicated police staff appointed to Police and Community Youth Clubs be opposed, received from **Mr Oakeshott.**

### Bowraville Central School

Petition praying that the secondary department of Bowraville Central School be retained and the school facilities maintained and upgraded, received from **Mr Jeffery.**

**Coffs Harbour Jetty**

Petition praying that a platform be constructed on Coffs Harbour jetty for the purposes of jetty jumping, received from **Mr Fraser**.

**Northside Storage Tunnel**

Petition praying that plans to construct a storage tunnel from Lane Cove to North Head be abandoned, and that the allocated funds be used to find a long-term sustainable solution to sewage disposal, received from **Dr Macdonald**.

**Countrylink Luggage**

Petition praying that the Minister for Transport restore the luggage booking facility on Countrylink services, received from **Mr Hartcher**.

**Manly Wharf Bus Services**

Petition praying that plans to move bus services from Manly wharf to Gilbert Park be abandoned, received from **Dr Macdonald**.

**QUESTIONS WITHOUT NOTICE****COMPANION ANIMALS LEGISLATION**

**Mr COLLINS:** I ask a question without notice of the Minister for Local Government. How was the Minister able to give his Cabinet colleagues a personal assurance that the Companion Animals Bill would not turn into a "political headache" for the Government when it gave so-called threatening cats the same classification as vicious dogs? Did the Minister actually read the bill before he presented it to Parliament?

**Mr SPEAKER:** Order! The Leader of the Opposition may ask only one question. I call the honourable member for Ermington to order. I call the honourable member for Eastwood to order. I call the honourable member for Baulkham Hills to order.

**Mr E. T. PAGE:** As I indicated in debate on the bill, this is a contentious policy area. There are in the community many groups with polarised ideas on what should happen with companion animals. There is no middle course on this issue. No matter what proposition is put forward, some groups will be violently opposed to it. I am not surprised that there are concerns in the community because polarised views are not met by the legislation. I am sorry

about that. I would be very happy to bring forward legislation with which everyone would agree, but where that is not possible one goes ahead and brings forward measures that are reasonable for the welfare of the animals concerned. That is the basis of this legislation.

**Mr SPEAKER:** Order! I call the honourable member for Burrinjuck to order.

**Mr E. T. PAGE:** While some groups find problems with the legislation, all of the major animal welfare groups have given me written support.

**Mr Hartcher:** Like the RSPCA.

**Mr E. T. PAGE:** Yes, like the RSPCA. Might I quote from a letter dated 28 May addressed to me as Minister.

**Mr Phillips:** On a point of order. The 28 May is in two days time. The Minister should send it off to the RSPCA to get them to sign it now.

**Mr SPEAKER:** Order! There is no point of order.

**Mr E. T. PAGE:** As I said, the letter is dated 28 May. That is the date on the letter; I did not make up the date. I table a copy of it. It was faxed to me today; the fax date is 26 May. It is from the RSPCA Yagoona. So there is no doubt it is a factual letter from—

**Mr SPEAKER:** Order! The Leader of the Opposition will resume his seat.

**Mr Collins:** I stand on a point of order.

**Mr SPEAKER:** Order! The Leader of the Opposition will resume his seat. He may take the point of order when the Minister concludes his reply.

**Mr E. T. PAGE:** I am sorry if someone in the RSPCA made a mistake.

**Mr SPEAKER:** Order! The House will come to order. Members of the Opposition do not have copies of the correspondence from which the Minister is quoting; they should listen to his answer in silence. Indeed, some asked the Minister, by way of interjection, to table the letter. Now that he has done so the letter will be available to members of the Opposition. They will have an opportunity to ask further questions when the Minister has finished his answer.

**Mr E. T. PAGE:** I quote from the letter, signed by Charles Wright, Chief Executive Officer:

I write on behalf of the RSPCA NSW regarding recent comments that have been made about the above bill.

**Mr Collins:** On a point of order. I raised the original question with the Minister. To assist the Minister to identify—

**Mr SPEAKER:** Order! What is the point of order?

**Mr Collins:** The Minister has, I think unwittingly, misled the House.

**Mr SPEAKER:** Order! The Leader of the Opposition has not taken a proper point of order. He will resume his seat. If he has difficulty understanding the Minister's answer, he may ask a supplementary question at the appropriate time. I call the Deputy Leader of the National Party to order.

**Mr E. T. PAGE:** I resume my quotation:

Let me first of all reassure you that RSPCA does substantially support most sections of the bill as it will go a long way to stop the senseless slaughter of some 50,000 cats put down every year because we are unable to return them to their owners.

The Opposition does not agree. It prefers to see those tens of thousands of cats put down every year. Opposition members are not prepared to support the legislation. I continue:

Naturally, there are a number of amendments which the RSPCA will be seeking your support on it is our hope that all these amendments will also be accepted by the Opposition.

I suggest that Opposition members talk to Mr Wright so that they might get themselves back on track. This statement in the letter is underlined:

At the end of the day this bill must go ahead for it will not only save thousands of unclaimed animals from certain death, but it will provide urgently required regulations against dangerous dogs, unnecessary cruelty to cats and protect wildlife.

All of which the Opposition does not support, obviously.

**Mr SPEAKER:** Order! I call the honourable member for Pittwater to order.

**Mr E. T. PAGE:** I continue:

The bill will also ensure that added responsibility is placed on owners whose current lack of action causes massive cruelty to both cats and dogs.

RSPCA urges you to push forward with this legislation and not be swayed by minority sectional interests.

I repeat, this letter was faxed to me today; the fax date 26 May appears at the top of the letter.

## FEDERAL EDUCATION AND TRAINING BUDGET

**Mr MOSS:** My question without notice is to the Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs. What is the impact of the Howard-Costello budget on education and training and jobs in New South Wales?

**Mr Hartcher:** On a point of order. Last week the Chair ruled out of order a question asked by the honourable member for Vaucluse because the subject of the question was a matter to be debated. The matter of public importance raised by the honourable member for Badgerys Creek to be debated this afternoon concerns the impact of the Commonwealth budget on education. The question asked by the honourable member for Canterbury raises the same issue as that which will be debated as a matter of public importance. I ask that the question be disallowed.

**Mr SPEAKER:** Order! The point raised by the member for Gosford has some validity. The matter of public importance of which the member for Badgerys Creek has given notice deals with the impact of the higher education policies of the Federal Government. The question asked by the member for Canterbury relates to the Federal budget for education, training and jobs. They are two distinct matters. I will allow the question.

**Mr AQUILINA:** As you rightly pointed out, Mr Speaker, the question deals with the impact on New South Wales of the Howard Government's general education budget. Last week I revealed details of how the Howard Government's proposed GST—the gigantic student tax—would have a massive financial impact on every student, parent, teacher and academic. The gigantic student tax will be a tax on knowledge, education, information and culture. The latest proposal is simply another impost that the Howard Liberal Government is putting on students, parents, teachers, schools, TAFE colleges and universities. Today I can reveal further actions of the Howard Government which are having, and will continue to have, a savage and damaging impact on Australian education and training.

Today I release a detailed report on the impact of the latest Howard-Costello budget on education

and training. I refer my comments specifically to the way in which the budget of the Commonwealth Government is affecting the budget of the New South Wales Government in relation to schools, TAFE colleges and universities. The report reveals that the Howard Government's budget papers confirm that funding for schools, TAFE, vocational education and training and universities is to be cut in real terms by \$404 million, or 4.5 per cent, for this year alone. The report is titled "Savaged For A Surplus" and was compiled using Federal Government data. It proves that claims by the Prime Minister and other Federal Ministers that funding is being increased are completely false. Their documents and figures prove them wrong.

John Howard, Peter Costello and David Kemp cannot claim to have turned a deficit into a surplus by slashing Commonwealth expenditure and then claim that they have increased funding for education and training. They cannot do both. The facts speak for themselves. This year's budget surplus has been built on the backs of students, schools, TAFE colleges, universities and teachers to allow the Howard Government to offer an electoral tax-cut bribe later this year. This year education and training funding has been massively cut again and further, more damaging cuts are programmed for next year and following years. That is an important aspect of the Commonwealth budget. Not only have there been cuts this year, but worked into the budget are cuts for next year and cuts for the following year as well. Government schools are being savagely hit with more than \$101 million to be cut from funding between 1997-98 and 2001-02. Those figures represent a decline by 7.2 per cent in real terms. John Howard owes the more than 70 per cent of Australian parents who send their children to government schools an explanation as to why he misled them on ABC radio on 13 May during the *AM* program when he claimed:

In the changes we have made to Commonwealth spending we deliberately quarantined from any spending cuts at all the support the Federal Government gives to schools in Australia.

The only schools quarantined have been non-government schools; they will receive a funding increase of more than \$154 million, or 6.8 per cent, over the next four years. On the one hand funding to government schools has been cut by \$101 million and on the other funding to non-government schools has been increased by \$154 million. John Howard's increase in funding for non-government schools is being funded by the funding cuts to government schools. Other Howard Government budget measures and policy initiatives will result in vocational education and training funding cuts, higher education funding returned to pre-1990-91 levels, and more

than \$300 million of Commonwealth costs shifted to the States.

The report's analysis of the Federal budget papers and data shows that \$101 million is to be cut from government schools funding between 1997-98 and 2001-02, representing a decline of 7.2 per cent in real terms; \$33.2 million is to be paid by government schools to the Commonwealth as a result of the enrolment benchmark adjustment this year, a figure that will increase to \$92 million in 2001-02; funding to non-government schools is to be increased by \$154 million; \$50 million is to be cut from funding for vocational education and training this year, representing a reduction of 5.1 per cent in real terms, a figure that will increase to \$78 million by 2001-02, or an 8 per cent reduction; \$388 million, or 9.8 per cent in real terms, is to be cut this year from university funding; and \$975 million, or more than 23 per cent in real terms, will be cut from higher education funding between 1995-96 and 2001-02, returning funding of universities to pre-1990-91 levels.

The budget papers also reveal that 4,270 undergraduate places have been lost in New South Wales through the abolition of the Commonwealth industry places scheme; there will be a \$168 million annual cost impact on the States with the introduction of the common youth allowance, which will result in as many as 20,000 young people returning to school; \$45 million will be cut from targeted programs such as the national Asian languages and studies in Australian schools program; \$27 million will be cut from funding capital works for new school facilities this year, a figure that will increase to \$31 million by 2001-02; and a 5 per cent reduction in the number of students receiving Austudy.

Students, teachers, parents, schools, TAFE colleges and universities have every right to be outraged by the massive and damaging cuts to their funding. The Government recognises that education and training funding is an investment in the future. The Government does not support these cuts, and will not follow the same path as the Liberal and National parties. What about the members of the Opposition? I have not heard anything from them in relation to these cuts. They have not said a single word while I have read out this litany of cuts by the Federal Government. I have not heard a single peep from the shadow minister, John Howard in disguise, about the Commonwealth government's shameful cuts to education funding.

**Mr Collins:** On a point of order. This is not the first time that the Minister for Education and

Training has begged for interjections. Members of the Opposition have been listening quietly to what the Minister has had to say. The Minister is begging for interjections to inject some life into an otherwise dreary address.

**Mr SPEAKER:** Order! I am inclined to uphold that point of order.

**Mr AQUILINA:** I hope the Leader of the Opposition was not being provocative. Beggars cannot be choosers: if I cannot get an interjection from members of the Opposition, at least I should get a whimper out of them when I talk about the cuts Howard and Costello have made in the budget. I make absolutely no apology for the stance of the Government in relation to this issue. The Howard-Costello cuts to education are there to be seen by all. They are thoroughly annotated. So that the Opposition may perhaps be able to raise a voice, no matter how wimpish it may be, for the Howard-Costello Government, I table the report entitled "Savaged For A Surplus."

#### COUNTRYLINK XPT SERVICE

**Mr PHOTIOS:** My question without notice is directed to the Minister for Transport, and Minister for Roads. Has the respected international railway magazine, *Trains*, rated Countrylink's XPT service the worst rail journey in Australia, saying the train was as rough riding as a cement mixer, the carriages were heavily scented with fumes and the food was dismal?

**Mr Carr:** What did you do about it?

**Mr SPEAKER:** Order! If the Premier wishes to answer the question, he is at liberty under the standing orders to do so.

**Mr PHOTIOS:** Given that XPT trains have caught fire four times this year and have been regularly up to five hours late, when will the Minister improve this appalling service?

**Mr SCULLY:** The article to which the shadow minister for transport referred makes some interesting comments in relation to Countrylink services. The person who wrote the article made comparisons between the Countrylink XPT service, the Queensland *Sunlander* and the *Indian Pacific*. Both those trains are entirely different to the XPT and service completely different types of routes. The honourable member for Ermington aspires to be Minister for Transport, but he has no idea of the difference between the XPT and the *Indian Pacific*.

I will spell it out to him because he needs to know. The XPT provides direct point-to-point services, travelling no more than 13 hours. The *Indian Pacific* and the *Sunlander* are specifically geared to the long-distance tourist market. They both travel at much lower speeds than the XPT and their travel times are 60 hours and 30 hours respectively. The XPT offers a take-away buffet service compared to sit-down dining cars provided on the other two services. I am pleased to have this opportunity to give members some good news about the XPT service.

**Mr Amery:** A great service!

**Mr SCULLY:** The Minister for Agriculture is a Countrylink traveller. I understand he went to Yass recently, and he will be travelling soon. He has some good things to say about Countrylink services. I am pleased to announce that the Government proposes to spend \$130 million over the next four years to upgrade the XPT service to ensure that those services continue to be reliable and comfortable. It is important that those using XPT services have comfort and reliability, and that is why a substantial part of the \$130 million will be used to refurbish and undertake a major mechanical upgrade of XPTs. I am delighted that I have had the opportunity to tell the House of the Government's plans for the XPT fleet, and I thank the honourable member for his question.

#### COALITION ONE NATION PARTY SUPPORT

**Mr STEWART:** My question is to the Premier, Minister for the Arts, and Minister for Ethnic Affairs. What is the Government's response to the growing community concern about divisions within the coalition over support for Pauline Hanson's One Nation Party?

**Mr Hartcher:** On a point of order. The standing orders provide that questions must relate to matters within Ministers' portfolios or to the public administration of the State. The coalition parties intend to be in government next year, but they are not in government at this time and the question is out of order.

**Mr Aquilina:** On the point of order. The question was clearly directed to the Premier, who is also the Minister for Ethnic Affairs. The question relates to a matter affecting ethnic affairs, which falls within his portfolio, and which is a matter of community concern.

**Mr SPEAKER:** Order! The question is in order.

**Mr CARR:** Of all the questions asked in this House today—and there have been some very good ones—none has been better researched or is more pertinent than this one. The policies of Pauline Hanson's One Nation Party have divided the nation.

**Mr SPEAKER:** Order! I call the honourable member for Murrumbidgee to order.

**Mr CARR:** They have caused enormous anguish in ethnic and indigenous communities, and we must send the clear message that the social intolerance espoused by One Nation is unacceptable. The way to send that clear message is for major political parties to place One Nation last on their how-to-vote cards. Members of the Opposition object to that, but I am quoting their leader's press release of 12 May. Although they are not my words, I agree with them wholeheartedly. One Nation is capable of doing enormous damage to this country. Just when we thought we had a principled position from the Opposition on this matter, who stumbles from behind the drawn curtains? The honourable member for Murwillumbah, Don Conduive, comes down from the rotting mangroves on the far north coast. Out he comes, wearing his veteran's badge, the first wave of the Independent Commission Against Corruption campaigners. He was first, we cannot take that away from him.

**Mr SPEAKER:** Order! I call the honourable member for Ermington to order for the second time.

**Mr CARR:** Today the honourable member for Murwillumbah comes striding out to centre stage with all the fervour of an old Shakespearian actor to state in the media, "There has been no discussion at party levels, so I don't agree with that."

**Mr SPEAKER:** Order! I place the honourable member for Wakehurst on two calls to order.

**Mr CARR:** He does not agree with the leader of the coalition; he does not agree that Pauline Hanson's party should be put last. On 12 May the Leader of the Opposition said it should be put last; I will come to his more current view in a moment. The honourable member for Murwillumbah disagrees with that. There is another sign from the north coast, territory that my friend the Minister for Regional Development would be familiar with, of profound disagreement with the principled position taken by the Leader of the Opposition on 12 May.

**Mr SPEAKER:** Order! I call the honourable member for Baulkham Hills to order for the second

time. I call the honourable member for Burrinjuck to order for the second time. I call the honourable member for Wakehurst to order for the third time.

**Mr CARR:** A figure of some prominence in the region, but not a household name, Mr Erl Calver, Chairman of the Clarence Electorate Conference—

**Mr SPEAKER:** Order! I place the Deputy Leader of the Opposition on two calls to order.

**Mr CARR:** The Deputy Leader of the Opposition interjects. The shadow ministers are not even household names in their own households.

**Mr SPEAKER:** Order! I call the honourable member for Ermington to order for the third time.

**Mr CARR:** Good old Erl Calver, a leading luminary of north coast liberalism, has come forth. He says, "We will fight any directive from the Liberal Party to put One Nation last."

**Mr Debus:** On the beaches!

**Mr CARR:** That is Erl: fight them on the beaches; fight them in the mangrove swamps. He will never surrender. He is promising guerilla warfare, liberal hamlet by liberal hamlet. He will fight harder than the Vietcong. They will be in tunnels; they will not give in.

**Mr SPEAKER:** Order! I call the honourable member for Burrinjuck to order for the third time.

**Mr CARR:** He says to the Leader of the Opposition, "My personal opinion, and I think you will find it is the opinion of many Liberals up here, is that we have nothing to fear from the One Nation Party." The ink is hardly dry on the manifesto of One Nation and the Leader of the Opposition and the coalition are saying they will not be part of that. We know the position of the Leader of the National Party, his colleague, who entered the debate in this House last week and gave a speech of a full 250 words. He declared that it was too early to say where the preferences would go. Those words proved very persuasive to the Leader of the Opposition. After his death-defying comments last week, today in the media his office is quoted in the following terms:

A spokeswoman for the Leader of the Opposition is quoted as saying it is now "too early" to say where preferences would be directed.



**Mr SPEAKER:** Order! I call the Deputy Leader of the Opposition to order for the third time.

**Mr CARR:** On 12 May the Leader of the Opposition showed Churchillian defiance: no preferences to One Nation. As there was some confusion earlier about the date, I remind the House that it is 26 May—message to the RSPCA: today is 26 May. What does the Opposition say today? It is now too early to declare where its preferences are going. So the Churchillian declaration of 12 May is now rescinded and the official coalition line in the media today is that it is too early to say no to One Nation. No wonder the Ethnic Communities Council is so concerned! No wonder its chairman, Mr Anthony Pun said:

We have no alternative but to call on Mr Ian Armstrong, Leader of the National Party, to say that they will put the One Nation Party last.

No wonder the *Jewish Times*, speaking for the great Jewish community of this State, was reported on 22 May as saying:

The executive council of the Australian Jewry and the Jewish board of deputies both strongly supported the call—

[Interruption]

That vicious racist comment should be withdrawn. Why does he not join League of Rights? I repeat that, according to the *Jewish Times* of 22 May:

The executive council of Australian Jewry and the Jewish board of deputies both strongly supported the call for all political parties to put One Nation last in their preferences.

That is the view of the great Jewish community of New South Wales. It wants all political parties to put One Nation last. That is its position. The Great Synagogue Senior Minister, Rabbi Apple, said—

[Interruption]

That remark should be withdrawn; it is disgusting.

**Mr SPEAKER:** Order! I call the honourable member for Eastwood to order for the second time. I call the honourable member for Eastwood to order for the third time. I place the honourable member for Northcott on three calls to order.

**Mr CARR:** Rabbi Apple said:

Hansonism should be shunned by every responsible Australian. This is a situation where national morality is more important than party politics.

It is now time for the Leader of the Opposition to reaffirm what he said on 12 May.

**Mr Collins:** I reaffirm it. Stop lying! You are fabricating and misrepresenting. You are lying. I reaffirm it.

**Ms Meagher:** You had the chance last week and you didn't speak in the debate.

**Mr CARR:** He had his chance to speak in the debate on the motion moved in this House last week and he refused to do so.

**Mr Peacocke:** On a point of order. The Premier's answer is no more than a tarradiddle of verbose frustration. I ask you to ask him to draw his answer to a close on the grounds of prolixity.

**Mr SPEAKER:** Order! No point of order is involved.

**Mr CARR:** I conclude by saying that the challenge is with the Leader of the Opposition, first, to force his own party executive to make the declaration that it will, in all circumstances, put One Nation last, and, second, to tell the National Party to make the same declaration. In the meantime, indigenous Australians and those born overseas regard with increasing concern the lack of leadership of the Leader of the Opposition.

## CASINO CONTROL AUTHORITY STAFF TRAVEL

**Mr SOURIS:** My question without notice is directed to the Minister for Gaming and Racing. Did three Casino Control Authority staff who spent seven weeks in the United States of America investigating the fitness of gaming giant, Harrahs, to take over Star City Casino have all their expenses paid for by Harrahs? In view of this, and claims that one delegate did not have a probity clearance, what assurances can the Minister give that the Casino Control Authority will conduct a thorough probity investigation?

**Mr FACE:** My understanding is that the overseas trip involving staff of the Casino Control Authority was paid for by the authority. If it was not I will immediately find out why. I have a very limited ability to question the Casino Control Authority on anything because of legislation enacted by the former Government. I have already expressed some concern about one person not having a probity clearance. I have asked the Independent Commission Against Corruption and the Crown Solicitor to advise me as to why that person has not had a clearance. I will report back to the House.

### PUBLIC HOUSING SECURITY

**Mrs GRUSOVIN:** My question without notice is addressed to the Minister for Urban Affairs and Planning, and Minister for Housing. In view of recent attacks on elderly people in Sydney, what is the Government doing to improve security in public housing?

**Mr KNOWLES:** I am sure that every member of this House would join the honourable member for Heffron and me in expressing revulsion at the brutal attacks meted out to elderly inner city women over the past two months. Those attacks were not only brutal; they were cowardly. They were directed at defenceless and frail women, many of whom live in public housing. As a consequence of those attacks there is now a high level of anxiety and fear amongst the elderly in inner city properties, and in Department of Housing properties in particular. I can only express the hope—I am sure I will again receive the support of the entire Parliament—that the high level of police activity in relation to the matter will bring the attacks to a swift conclusion.

People living in public housing, like all members of the community, have a right to expect a stable, safe and secure living environment. Over the past three years this Government has spent more than \$18.3 million upgrading security in public housing across the State. That work includes common area lighting, security access controls, the installation in some high-rise buildings of intercom systems and the fitting of security screen doors, deadlocks and window locks. All of those measures have been implemented despite savage funding cuts that this State and all other States and Territories have suffered at the hands of the Commonwealth, which has ripped \$200 million out of national housing over the past two years. In some areas the Government has even gone to the extent of employing security guards and redesigning some public housing estates to remove known criminal locations and criminal escape routes.

The Government's most recent initiative for inner city residents is a \$6.4 million program to install electronic security access in 147 public housing buildings in Waterloo and Redfern. The initiative is specifically targeted at elderly residents, who are more likely to live alone and less capable of fending off an attacker. I notice that the honourable member for Gosford is laughing. He is the only member of Parliament who would laugh, given that he spent \$667,000 on upgrading his office and not a zack on public housing. The Government's \$6.4 million initiative will mean that 5,300 residents

in inner city apartment buildings will now require an electronic key for access to the building, as well as a personal key for access to each unit. People who are not authorised to enter the buildings will be unable to gain entry without the consent of a resident.

This program will bring security arrangements for public housing apartment blocks into line with those commonly found in private rental accommodation. Work has already commenced, and the new security system is in operation in a number of buildings throughout the district. Work will be completed on all buildings by the end of the year. A similar program will commence in Rosebery and Eastlakes, at an additional cost of \$1.3 million. The Department of Housing will spend \$28 million during the next four years to complete the security upgrade, in addition to the \$6.4 million which will be spent on security of inner city apartment blocks. No-one can absolutely guarantee that an attack will not occur, but we can ensure that every effort is made to provide a safe and secure living environment. I am confident that this latest program will assist in that process.

After seven years of chronic neglect by the previous Government, this Government is at last providing the attention that public housing in this State so richly deserves. The Government's program represents a fivefold increase on the previous Government's expenditure for security upgrades to public housing. This Government has spent \$18.3 million in its three years in office, compared with \$5.3 million that was spent in the last three years of the coalition Government—a shameful and paltry amount, to the detriment of every public housing tenant in this State. The years of chronic underfunding are now at an end. I am confident that the Government's efforts to date and its programs in the future will ensure that all public housing tenants in this State will be able to live in a safe and secure environment.

### NATIVE VEGETATION CONSERVATION ACT

**Mr ARMSTRONG:** My question is directed to the Minister for Agriculture, and Minister for Land and Water Conservation. At the Australian Labor Party rural conference in Muswellbrook this weekend will the Minister apologise to farmers in that region for inflicting upon them the disastrous anti-rural State environmental planning policy 46 and the Native Vegetation Conservation Act, which have been a blow to profitable farming and productivity?

**Mr AMERY:** A question needs to be asked about this recent level of activity from the Leader of the National Party. Today he has asked a question about the Native Vegetation Conservation Act, which I will be able to answer quickly. He also directed two questions to me last week and raised the matter in private members' statements. What has caused this hyperactivity from the Leader of the National Party—inch after inch of columns in *Hansard* after years of inactivity?

**Mr Carr:** The drought has broken.

**Mr AMERY:** As the Premier said, the drought has broken. Another thing that has occurred is that the proposed boundaries of the Lachlan electorate will incorporate some major sections of the seat of Burrinjuck including, in particular, Cootamundra. The electors may have to choose between a local member who has a good record—the honourable member for Burrinjuck—or a member who is seen to have a high rate of activity in Parliament. The Leader of the National Party cannot say that he is a good local member, so he has to up the ante in Parliament. Clearly, the people in the new electorate of Lachlan will decide to support a very good local member. No wonder the Australian Labor Party rural and regional affairs committee wants the Labor Party candidate to give the preferences to the honourable member for Burrinjuck.

**Mr Carr:** Are you authorised to make that announcement?

**Mr AMERY:** I do not know if I am, Mr Premier, but I am going to have a go anyway. I look forward to addressing the ALP conference next Sunday in regard to the major reforms in land clearing management that the Government has incorporated in State environmental planning policy 46 and native vegetation legislation. The only apology I will give to the Labor conference is that New South Wales was the fourth State to introduce native vegetation legislation—because for seven years the coalition Government did nothing about land clearing management. Because the Leader of the National Party has asked me about this matter, I shall refer to a letter that was published in the *Land* last week. The author, a farmer, quoted me as saying that no future coalition government would change land clearing legislation in this State. He then wrote that at the Kyoto conference the Federal Minister for the Environment committed this whole country to reducing the level of land clearing.

The farmer concluded by asking when the Leader of the National Party was going to outline

his plans in the event that he became the Minister in charge of land clearing. He asked what the Leader of the National Party would do about native vegetation legislation, in light of the fact that his coalition colleagues have committed all Australian States to a reduction in land clearing in the years ahead? The only apology I will make this week will be that New South Wales was a little bit slow, being the fourth State to introduce such legislation.

#### COBAR CSA MINE CLOSURE

**Mr BECKROGE:** My question without notice is directed to the Minister for Mineral Resources, and Minister for Fisheries. Will the Minister advise the House what progress has been made to help the former employees of the CSA copper mine in Cobar?

**Mr MARTIN:** It is only fair to accurately report to the House what has happened to date and to commend the honourable member for Broken Hill for his tireless job in promoting the rights of workers in Cobar. It is rotten that workers in Cobar have lost all their entitlements. They lost, their families lost, and the local community lost; everyone in Cobar lost. When Ashanti, the mining company, left, 260 out of 750 mining jobs in Cobar went with it. The mining company left those workers without their wages, leave entitlements and other accumulated benefits.

**Mr Cochran:** The local member did nothing about it.

**Mr MARTIN:** You are a silly man.

**Mr SPEAKER:** Order! The Minister will direct his remarks through the Chair. I place the honourable member for Monaro on two calls to order.

**Mr MARTIN:** It is only fitting to compare this side of the House with that side. That side has done nothing.

**Mr Beckroge:** Ask what the Federal Government has done.

**Mr MARTIN:** The Federal Government has done nothing but walk away from people's rights.

**Mr SPEAKER:** Order! I call the honourable member for Broken Hill to order.

**Mr MARTIN:** The Hon. Janice Crosio and the Hon. Bob McMullan have at least introduced legislation into the Parliament—

**Mr Hartcher:** What have you done?

**Mr SPEAKER:** Order! I call the honourable member for Gosford to order.

**Mr MARTIN:** You chortle at the workers' losses.

**Mr SPEAKER:** Order! I call the honourable member for Gosford to order for the second time. I place the honourable member for Davidson on three calls to order.

**Mr MARTIN:** You are no different from Corrigan. You are no different from Skase and any of those types of people with your attitude.

**Mr Hartcher:** On a point of order. The Minister's remarks are grossly offensive in comparing me to Christopher Skase. I have the same Christian name, that is all.

**Mr SPEAKER:** Order! The member for Gosford may make a personal explanation at the appropriate time.

**Mr MARTIN:** Ashanti walked out with \$38 million worth of debt. It owed the workers \$10 million. The Federal Government has done nothing. Its typical attitude is to do workers over. It will not do anything to pursue Ashanti or protect workers' rights. The same sort of people sit opposite. For the last three months this Government—the Premier, the Treasurer, the member for Broken Hill and a variety of other members—

**Mr SPEAKER:** Order! I call the honourable member for Monaro to order for the third time.

**Mr MARTIN:** —have been working solidly with the unions, Mayor Lilliane Brady, the councillors and the workers to try to assist the town.

**Mr Photios:** On a point of order. The member for Broken Hill asked the question. He has left the Chamber—

**Mr SPEAKER:** Order! There is no point of order.

**Mr Glachan:** On a point of order. From time to time the member for Londonderry quacks like a duck. I feel that that is unparliamentary.

**Mr SPEAKER:** Order! The Minister has the call.

**Mr MARTIN:** People in the gallery and members of Parliament should realise that the people opposite treat this whole problem as a joke.

**Mr SPEAKER:** Order! I call the honourable member for Baulkham Hills to order for the third time.

**Mr MARTIN:** That is what is disgusting about the people opposite. They treat it frivolously. They will do anything they can to get out of their obligations. We have been working closely with the liquidator. We have been trying to do what we can for the people of Cobar. We are also trying to do what we can for the Woodlawn people. As I said, the two pieces of Federal legislation are important. We will continue to help the people of rural New South Wales—Grafton, Lithgow, Cobar, Woodlawn and wherever.

**Mr SPEAKER:** Order! I call the honourable member for Barwon to order.

**Mr MARTIN:** Negotiations with officials are at a delicate stage. I will report to the House in the next few days. I ask this of members of this Parliament: please realise that we are at a delicate stage of negotiations with the administrator.

**Mr SPEAKER:** Order! I place the honourable member for Coffs Harbour on three calls to order.

**Mr MARTIN:** We are also in daily contact with the administrator. One mining company has a 120-day option, which expires in August. Extensive drilling is being done to determine the reserves, but we are confident about the result. The Government will support the transfer of the mine to a new owner provided that it maximises the potential of the reserves. We will also assist in a package relating to stamp duty, deferred royalties, rail freight and payroll tax. The Government has put itself lower on the order of creditors so that the workers can get their component—ahead of the sort of people the Opposition supports.

**Mr Souris:** What about the businesses and the shops?

**Mr MARTIN:** The Deputy Leader of the National Party interjects about the shops. Mr Speaker, I can assure you that we will do whatever we can to maximise the number of cents in the dollar that shopkeepers get, but if coalition members' mates in Canberra get off their backsides and protect people's rights and pursue Ashanti there will be a much better return.

## DEPARTMENT OF COMMUNITY SERVICES STAFFING

**Mrs SKINNER:** Did the Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women promise that the Government would give the Director-General of Community Services the power to hire and fire staff who work within the department? Given that six months have now passed since that commitment, why has the Minister not honoured the promise?

**Mrs LO PO':** Carmel Niland has been in the job one month yesterday.

**Mrs Skinner:** The promise was made six months ago.

**Mr SPEAKER:** Order! The member for North Shore has asked the question. She will listen to the answer in silence.

**Mrs LO PO':** Let us have a history lesson. Carmel Niland has been in the job one month. I have been in the job for five months. Whatever questions the honourable member has about employment, let me assure her that the Government has done more for the employment of people in the department than the coalition ever did. The coalition cut 1,000 thousand jobs, closed 25 per cent of centres, and axed every child protection officer in the department—then there was the problem with paedophilia. The Opposition has no licence to talk about anything that happens in the department pertaining to people's employment. This Government has done more than the coalition has ever done or would ever have done.

**Mrs SKINNER:** I ask a supplementary question. In light of the previous answer, is the House to understand that DOCS is handling its responsibilities so well that there is no need for any hiring?

**Mrs LO PO':** The Department of Community Services is handling itself very well. Let me tell you what is happening. We have officers who are doing their very best. At an expo last week people came up to us and said, "Thank you for the job you are doing."

**Mr SPEAKER:** Order! I place the honourable member for Pittwater on three calls to order.

**Mrs LO PO':** "And thank you for all the things that are happening." The fact is that the Department of Community Services will staff itself

to the appropriate level and it will do the job that your Government never did. You are the people who destroyed the department. Since we came to government we have increased—

**Mr SPEAKER:** Order! The Minister will direct her remarks through the Chair.

**Mrs LO PO':** I am sorry, Mr Speaker. Since Labor came to government we have made sure that people in DOCS have responsibilities and carry them out well. The coalition Government was the one that actually destroyed the department. The employment of people in my department is in good hands, but I cannot say it was when the coalition was in government.

## Questions without notice concluded.

## NATIONAL SORRY DAY

**Dr REFSHAUGE** (Marrickville—Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [3.29 p.m.]: I move:

That on 26 May 1998, designated by the National Stolen Generations Committee as National Sorry Day, this House reaffirms its commitment to reconciliation.

I take this opportunity to remind all honourable members that this House stands on Eora land. To this day we are unable to say exactly how many Aboriginal children were forcibly removed from their families in New South Wales. Many records have not survived. Others did not record Aboriginality. But it is likely that some 10,000 children were removed from their families in this State over a period of 100 years or so—10,000 forced removals that have forever changed the lives of the young people removed; that have devastated families, communities and cultures.

They were not removed from their families because their parents were incompetent; these children were removed because they were Aborigines. Twelve months ago today a troubled nation began a journey towards reconciliation. This past year has been tumultuous. On 26 May 1997 the report into the stolen generations, "Bringing them home", was tabled in Federal Parliament. Also on 26 May 1997, 1,800 delegates gathered in Melbourne for the Australian Reconciliation Convention to start the healing process. Many said sorry; many cried. In contrast to the emotion in Melbourne, the reaction in Canberra was hardly welcoming; it was icy cold. For at the heart of reconciliation is saying sorry. It is about apologising for past wrongs and gross injustices. It is also about humility; it is not about guilt.

I am proud to say that in June last year this Parliament, in a bipartisan motion, apologised unreservedly for the profound grief and loss suffered by Aboriginal people in this State through forcible removal policies. Many other State and local governments have said sorry, as have churches, countless other groups and thousands of Australians who have said sorry in sorry books around the country. Yet I am saddened to say that our Federal Government, the Government of our country, still refuses to apologise. Where is its heart? Where is its courage? Where is its integrity? Does it not understand that it is only through an apology that we can accept the past and start the necessary healing for our future together? In the words of the report into the stolen generations:

We cannot truly start healing until we have all accepted the past, and our roles in shaping that past. We cannot truly start healing until we are sorry for what has been done and, through this apology, can understand the way forward.

I hope that in 12 months time my questions will have been answered through action. National Sorry Day offers every community the chance to shape a ceremony which, by the frankness of its acknowledgment of past wrongs towards the stolen generations and by the sincerity of its commitment to overcome racism, unites the community. These are the words of the National Sorry Day Committee. Today is about acknowledgment, commitment and unity. Over the past year we have come to understand where we have made progress in line with the handing down of the report entitled "Bringing them home". We have also come to understand what still needs to be done.

Here in New South Wales we have been handed a unique opportunity, an opportunity to help right the wrongs of the past and allow us to build on a just future for all our children. On the advice of the New South Wales stolen generations working group, the New South Wales Government is now meeting with members of the stolen generations to discuss how it can make current government programs and policies meet their needs. In the spirit of the national inquiry, the Government will talk to the people who have been most affected by the removal policies. It will go back to the people who are able to help ensure that the policies of the past will never happen again.

The enormous impact that separation policies had on Aboriginal people and communities is a legacy that is still evident today. "Bringing them home" is a testimony to the grief and loss experienced by the stolen generations. The report details the most personal and shocking experiences. The distress of this to both the individual and the

community can never be overestimated. Twelve months after the release of the report, we all remain both distressed and inspired—distressed at the suffering of those affected by removal policies and at the continuing impact felt by families and communities, but inspired by stories of courage and survival. Yet we must not fool ourselves. Despite the courage and conviction of many survivors, the bulk of the work still lies ahead.

For Aboriginal people today there are still many poverties—health, housing, education, employment, cultural heritage and land. Last year this Parliament was moved by the words of Nancy de Vries. Nancy's words still ring in this Chamber. We were given a picture of one woman's life which echoed the lives of countless other Aboriginal people. Nancy reminded us that we could not possibly comprehend the life of that child—and we cannot. At the time of the national inquiry, the New South Wales Government provided a submission. The submission is open and frank—it is also shocking. It tells of the separation practices; it tells of how children were removed; it tells of families devastated; and it tells of lives destroyed. Nancy is right: we cannot know and we can never comprehend.

To ensure that the people of New South Wales have access to this truth—the truth of past government practices—the New South Wales Government submission to the national inquiry will be released publicly next month. The report details the history of forcible removals in New South Wales and, in doing so, will help us and future generations understand the consequences of these actions. By releasing this report, we are securing the truth in order to secure our future. Never again will this history be hidden by governments of the day. This is critical. Today, Aboriginal and non-Aboriginal people in New South Wales are moving forward together as equal partners. These are meaningful partnerships based on trust, respect and goodwill. Under this Government successful partnerships are working already in health, education and training. Also, we are developing partnerships to provide housing, to protect cultural heritage, and to achieve Aboriginal economic self-sufficiency.

A program that I see as fundamental to changing the way government works is the Aboriginal environmental health infrastructure program. The forum overseeing that program is about infrastructure, but not just about roads, houses and sewerage, though they are important. Infrastructure is about the community, employment and training, the protection and management of culture and heritage and, most importantly, it is

about the future for children and families. Through this program we have started to change our mainstream definitions where each community has equal control of the project with government. We already have some great results. In the Dareton and Muli Muli Aboriginal communities 32 houses and two community centres are being built and 33 community members are getting their apprenticeships. These are tangible outcomes.

Before I close, I would like to bring to the attention of this House an exhibition at the Australian Museum. The Department of Aboriginal Affairs and the museum have launched an exhibition detailing the story of the stolen generations. The exhibition displays one of the files, typical of the many hundreds, kept by the Aboriginal Welfare Board. That file shows the progression of Kay, a young girl, during her time in the board's custody. The story begins with the court order to remove her from her parents, under a neglect charge, and documents her life, beginning with school records and progress reports. On her admission to Cootamundra, the file entry was, "[It] is taking a time to make her forget her past. She is improving." I strongly urge all members of this House to read Kay's file—a typical file—which, through its lack of compassion, epitomises the plight of the stolen generations.

Through this we can gain an understanding of the attitudes that those in authority held towards children like Kay. At the Sorry Day concert, held on the steps of the Opera House last Sunday, Julie Lavell, chairperson of Link-Up, reminded us all that Australia has a black history. Australia has a history that spans more than 50,000 years. Let us not forget how much we have affected that history in the short time since the arrival of non-Aboriginal people. At the end of the day, it is our history. We must embrace it. National Sorry Day is more than just saying sorry; it is more than reconciliation. It is about creating a future in which all Australians can live together in unity, in justice and in pride.

**Mr COLLINS** (Willoughby—Leader of the Opposition) [3.38 p.m.]: I say at the outset that I am surprised at the absence of the Premier in this debate on this extremely important day. I know that earlier he made a ministerial statement, but I am surprised that he has chosen not to lead this debate on this important day that has been set aside to remember the stolen generation. It is becoming a habit for the Premier to absent himself from important debates in this Chamber, and he has done the Parliament no service by doing so on this occasion.

I too, as Mr Speaker did earlier, recognise the presence in the gallery of Reverend Emmett C. Burns, a pastor in the Rising Sun First Baptist Church, Baltimore, Maryland, and a member of the Maryland House of Delegates. It has been my privilege to visit the Maryland Legislature on a past occasion. I note the distinguished record of Reverend Burns in civil rights issues in that country. This is an opportunity for us to share his experiences in the United States and compare those with what is happening in Australia today. It is very much in that context that I address my remarks today.

I am proud that there is in this Parliament a substantial degree of bipartisanship in debates about reconciliation. May I say that fortunately, apart from a relatively few departures on the part of the Premier and some of his Ministers, there has been a general spirit of bipartisanship and agreement between members on both sides of Parliament on the need for reconciliation. And so it should be. We should celebrate our bipartisanship in this State and in this Legislature. We must not allow partisan politics to distract us from the giant task ahead. The job is not finished. In fact, the job has only just begun.

Let us look at the facts. Only one in three indigenous Australians will survive to age 65 years. At birth, life expectancy for indigenous males is up to 18 years less than the national average, and for females it is 20 years less than the average. The mean size of indigenous households in 1991 was 4.6 persons, compared with 2.6 across the nation. A third of indigenous households with dependent parents have no working parent. And only a quarter of indigenous Australians own their own home, compared with the national rate of 69 per cent. At the end of 1995, 120 Aboriginal communities still had inadequate water supplies, 134 had no sewerage, and 250 had no electricity. Add to that the news that unemployment is more than 2½ times worse for indigenous Australians. Their mean income is two-thirds the national figure. Half the Aboriginal community leave school before turning 16 years of age, and only a quarter make it to year 12. These are the facts. That is the truth. Those are the challenges for this Parliament and Australian society today.

Today is the first anniversary of the tabling in Federal Parliament of that landmark report "Bringing them home". As I said at Government House earlier today, that shocking report chronicled the policy catastrophe of separating Aboriginal Australians

from their parents. It saw 100,000 Aboriginal children forcibly removed from their parents. That policy saw 10 per cent of Aboriginal and Torres Strait Islanders aged 25 years and over separated from their families. The separation often was accompanied by abuse. It was a policy administered by governments of all political persuasions. This is not a day on which we should seek to divide. We should not be playing the blame game in this Parliament today. We should not be trying cheap political tricks in this Parliament. If we are to support this motion, let us be serious about it.

I want to say that the separation policy, although never motivated by malice, was always inspired by ignorance. There is no justification for separating parents from children on purely racial grounds. There is a right, indeed a responsibility, to protect children who are being abused. But to separate children from parents on racial grounds—which happened in some instances—was wrong. That is what we are acknowledging today. Today is an opportunity to pause, to acknowledge the past, to remember history, and hopefully to learn from our mistakes. What was done can never be undone, but we can remember.

What must be understood is that remembering the past, important though that is, is only a single step in the long and continuous journey towards reconciliation. It is the first step. In many ways, it is the easiest step. Our real progress towards our collective goal surely comes only when we match our words with positive, meaningful action—a point taken up on a number of previous occasions by my colleague the Leader of the National Party. Words come easily. Action is harder, but it is by our actions that we must mainly be judged, not by our words alone.

We on this side of the House have made a contribution—I do not pretend it is the only contribution—to the advancement of Aboriginal people in Australia. When I was Minister for Health I quarantined Aboriginal health funds, to stop other parts of that department plundering Aboriginal health funds for use on other priorities. I am pleased to hear that the present Minister still pays personal attention to Aboriginal health, as I would expect him to do, given his early medical career. As Attorney General I did what I could, in the one year that I was Attorney, to give heed to the report on black deaths in custody, to try to reduce the number of deaths occurring in custody in this State. As Minister for the Arts I was able to establish the first permanent Aboriginal art gallery, in a State gallery, in this nation. It stands as a monument to the Aboriginal people.

The themes for this year's event are acknowledgment, unity and commitment—positive themes for the Aboriginal community. These three simple words convey a second important message about reconciliation. They tell us that true reconciliation requires ongoing, continuous commitment—not just a speech, not just a day set aside, but a commitment to be made by all of us in our daily work in this place. We must take steps every day and in every way—not just once a year, not just on this day each year when the calendar reminds us it is time, but every day. I make these statements because I passionately believe that future generations of Australians will judge our record as legislators in this State on two criteria: first, whether our actions matched our words; and, second, whether our support was genuine and continuous. That, to me, is the real message of today.

I want to end on this note. I speak as Leader of the Opposition, and I speak as Leader of the Liberal Party—and I will be followed in this debate by the Leader of the National Party—but, above all, I speak as a human being and as a parent. What we remember today is the forced separation, on none other than racial grounds, of children from their parents. I speak, above all, as a parent of four children. I share the anguish, I share the burning feeling that the parents and the children will carry with them all their lives. That separation is what we remember today. Let us not have petty division and point-scoring on this issue. Let us set those aside when we remember the forced separations—and remember we must. It is my great honour, on behalf of the Opposition and both coalition parties in this the oldest and first Parliament, to commit ourselves anew to this journey towards reconciliation. It is something we must consider this year, next year, and in the millennium beyond. I commend the motion to the House.

**Mr MARKHAM** (Keira) [3.48 p.m.]: On 26 May last year the Human Rights and Equal Opportunity Commission tabled in the Federal Parliament the report on its national inquiry into the separation of Aboriginal and Torres Strait islander children from their families entitled "Bringing them home". The Human Rights and Equal Opportunity Commission dedicated "Bringing them home" to the generations of Aboriginal children taken from their families and communities, to those who are still searching for home, and to the memory of the children who will never return.

The inquiry estimated that between one in three and one in 10 Aboriginal children were forcibly removed from their families and communities between 1910 and 1970. Aboriginal



children were still being forcibly removed in the latter years of the twentieth century. We are not dealing with some abstraction from the remote past. We are confronted with continuing contemporary pain, loss and grief. In fact, as late as December 1965 the New South Wales Parliament passed an adoption Act which allowed Aboriginal children to be taken from their natural families without parental consent. In his Lingiari lecture Sir William Deane said:

The past is never fully gone. The present plight, in terms of health, employment, education, living conditions and self esteem, of so many Aborigines must be acknowledged as largely flowing from what happened in the past. The dispossession, the destruction of hunting fields and the devastation of lives were all related . . . True acknowledgment cannot stop short of recognition of the extent to which present disadvantage flows from past injustice and oppression.

"Bringing them home" is a powerful document recording Australia's history of the treatment of Australian indigenous people. It reveals the extent of removals, the consequences suffered and the policies and attitudes that justified these actions—perhaps not out of malice but certainly out of ignorance. The report made 54 recommendations, directed at healing and reconciliation for the benefit of all Australians. One of the recommendations was that a national Sorry Day be celebrated each year to commemorate the history of forcible removal and its effects. It is fitting then that 26 May 1998—the anniversary of the release of this landmark document—has been chosen as the date for the first national Sorry Day. The New South Wales Government, in response to Sir William Deane's call for the parliaments of Australia to confirm their support for true national reconciliation, passed a formal resolution in November 1996 in which Premier Carr said:

I re-affirm in this place, formally and solemnly as Premier, on behalf of the government and people of New South Wales, our apology to Aboriginal people.

In doing so, I acknowledge with deep regret Parliament's own role in endorsing policies and actions of successive governments which devastated Aboriginal communities and inflicted, and continues to inflict, grief and suffering upon Aboriginal families and communities.

The deliberate attempt at psychological elimination—the denial of Aboriginal identity—remains the unhealing wound for many. It is not surprising, then, that the inquiry found:

Many witnesses were taught to feel contempt for Aborigines. Those who knew their own heritage transferred that contempt to themselves.

To date, two tiers of government—local and State government—have apologised to the children of the

stolen generations. The third tier of government—Federal—will not issue an apology. Shame! Sorry Day is conceived as a community response to the stolen generations, an act of recognition from the hearts of the Australian community. National Sorry Day will mark another important step forward on the long and difficult road to reconciliation. The national patrons for Sorry Day are former Governor-General of Australia, Sir Zelman Cowan, and the interim national chairperson of the National Stolen Generation Corporation, Carol Kendall. The New South Wales patrons for Sorry Day are His Excellency, the Hon. Gordon Samuels, AC, the Governor of New South Wales, and Mrs Samuels. A civic reception, hosted by the Governor and Mrs Samuels, was held this morning at Government House. It was a successful and very moving event.

Other Sorry Day events include an exhibition of stolen generations memorabilia "In the Interests of Bennelong", which was opened at the civic reception this morning. This exhibition includes photographs, poetry, past media clips, commentary and art work which depicts the impact of removal on the lives of many Aboriginal Australians over the last 210 years. The Australian Museum, in conjunction with the Department of Aboriginal Affairs, is exhibiting "Stolen Lives: Documenting Aboriginal Separation and Survival". The Human Rights and Equal Opportunity Commission inquiry recommended that a national Sorry Day be held each year. Many of the stolen generation told the inquiry that they would value this. Sorry Day offers every community and every individual the chance to acknowledge—and to acknowledge sincerely—past wrongs towards the stolen generation. It is this commitment that can allow Australia the opportunity to go forward as a nation and unite as a community.

To say sorry has nothing to do with feeling guilty. To say sorry is to acknowledge the injustices against Aboriginal people over more than 200 years and to recognise their rights. To say sorry will commence the healing process between indigenous and non-indigenous people and bring about a greater understanding of indigenous and non-indigenous cultures within this country. When we compare the culture of the people of this country who have been here for only 210 years with the culture of the Aboriginal people of this great country—a race of people who were here for 40,000, 50,000, or 60,000 years before them—it is important for all of us to recognise and understand the culture of the indigenous people of this country. If we recognise and respect their culture, and understand how the very heart of Aboriginal culture is based on land, we might start to understand the difference between the cultures of non-indigenous Australians and indigenous Australians.

Yesterday I attended a very moving ceremony held at the Botany Bay National Park, Kurnell, together with my colleague the honourable member for Georges River, who is a member of the New South Wales Committee for Aboriginal Reconciliation, of which I am also a member. The Minister for the Environment, the National Parks and Wildlife Service and the Aboriginal Reconciliation Committee, recognised Sorry Day in a very moving ceremony. We had the opportunity to listen to speakers who expressed their concern and feelings and, more importantly, in a very moving way at the water's edge made a floral contribution and tribute to the surviving Aboriginal people of this country and past Aboriginal people who lived in Botany Bay, where Captain Cook sailed into and first landed.

In the main, Australians have an understanding and a feeling for Aboriginal people. Of course there are racists in our community, but I believe those racists are in the minority. As far as I am concerned, people who cannot understand what has happened in the last 200-odd years as far as our fellow human beings are concerned are not worth worrying about anyway. To that 20 per cent of people who do not understand, do not respect and do not love the indigenous people of this country and their culture, I say bad luck. They mean nothing to me, and they mean nothing to the people of this country who have a real commitment to reconciliation. It is a people's movement, and it is quite obvious that there is an incredible groundswell. Reconciliation is going along at the rate of knots, reconciliation will occur, and people who are supporting Aboriginal people and reconciliation in this country will be doing this generation the best service they could possibly do.

**Mr ARMSTRONG** (Lachlan—Leader of the National Party) [3.58 p.m.]: Again we are being asked to turn the clock back and say sorry with manufactured guilt over something that most Australians had nothing to do with and know little about. We are being asked to be part of a move towards reconciliation motivated by guilt and political correctness. The cynicism and sanctimony of such a glib exercise reflects no credit on the Government and deceives those who feel genuinely moved to do something to right the wrongs that exist within our community. I repeat what I said almost one year ago in this place during debate on a motion to say sorry to Aborigines taken from their families: an apology is a sham unless it is accompanied by real action. Last year's debate ended with an apology, but nothing more.

An opportunity existed to do something positive about our future relationship with the

Aboriginal community, to do more than simply take part in a political exercise. But one year on, what has been done? Absolutely nothing, except an avalanche of words from the politically correct—the leaders of the black armband brigade who dwell on the past and foster the guilt industry. They should purge their guilt by moving forward with positive plans for greater fairness and greater opportunities for those who are disadvantaged whatever their background, their ethnic extraction or the colour of their skin. Saying sorry does nothing to help the Aboriginal people. They need our confidence, not our sympathy.

Last year I cited the United States debate on a motion to say sorry to black Americans for the slavery of the past. It is worth repeating the words of African-American community leader Ward Connolly who said of an apology: "It's absurd. Apologising is dumb. It's not going to get us anywhere. Let's move ahead. The nation wants to move ahead." During discussion on the same subject noted black civil rights leader Jesse Jackson said: "A motion for an apology is distracting the nation from what is most important. There is no substance or value to an apology. There must be a program of substance beyond an apology." Congress Speaker Newt Gingrich said the motion for an apology was "nothing more than airy-fairy talk; just emotional symbolism that won't teach one more child to read".

That is exactly the point I continue to make. Apologies by the truckload do not make one iota of difference to the plight of the many Aborigines who lead lives of emptiness, despair, hopelessness and harshness. It is a simple but very true saying: actions speak louder than words. What has the Government done for Aborigines since we discussed being sorry last year? The Government's orchestrated sorrow lasted just one day. Since Sorry Day last year the Minister for Community Services, and Minister for the Ageing decided not to give a State Government home care project in Kempsey to the Booroongen Djugun Aboriginal Corporation, despite the corporation's successful track record in the region for eight years.

The Minister for Police allowed Aboriginal people in Bourke, Walgett, Brewarrina and Moree to suffer through unprecedented levels of violent crime for another year. The Minister for Fisheries refused to support a carp harvesting plan in western New South Wales that would provide at least 20 jobs for five years to unemployed Aborigines. The Minister for Regional Development kicked two Aboriginal families off leasehold cattle grazing country that they had held in the Grafton district for 20 years. The Minister for Agriculture has refused to help

start an export wildflower horticultural industry in western New South Wales towns that could employ up to 70 Aborigines. That is how the Carr Government has looked after Aboriginal people.

Why is this Government rejecting the Aboriginal people when they are trying to improve their standard of life, find jobs and create new initiatives that would give them not only some pride, dignity and income but also the ability to participate in new sunrise industries? The Ministers of this Government continue to turn their backs on Aboriginal people. The Minister for Transport has rejected repeated requests for a vitally needed community minibus for use by Aborigines in the isolated western town of Lake Cargelligo. What a proud record this Government has towards reconciliation. The Government makes a mockery of the day by coming into this place, parading around and carrying on with all the sanctity of a caring government when in reality the Carr Government has let down the Aboriginal people of this State. The Aboriginal cause has not improved by one centimetre, all because of this Government's inaction.

The Carr Government has every reason in the world to say sorry to the Aboriginal people, not for the actions of generations past but for its lack of care and concern for the Aboriginal people since the sorry day it came to government in 1995. I again ask: will an apology wipe away despair? Will it create jobs? Will it give hope? Will it provide education? Will it stop drug abuse? Will it wipe out disease, prevent domestic violence and reduce crime? Will it create real jobs? I am genuinely sorry for the many sad features of the everyday life of everyday people that have stained our culture and our communities. I am sorry for the homeless, particularly homeless kids who fall prey to the crime and corruption of the dark side of our cities; kids who, right now, are buying drugs with money earned by their bodies.

I am sorry for the women who were bashed in their homes last night. I am sorry for the homeless who slept in the streets and the parks of this city last night. I am sorry for the jobless, the neglected and the abused, but above all I am sorry that we do not seem to be making enough progress towards righting these wrongs. None of these people will be better off unless we do something positive. Apologies might warm the hearts of those who express them, but they will not bring about the slightest benefit to the people we identify as disadvantaged. If we are serious about bettering the lot of Aborigines on this day we will put this charade behind us and get on with the real job at hand.

I am appalled at the neglect of people in need within New South Wales irrespective of race, religion or culture. Changes must take place within ourselves and our community, and in the way we approach housing, employment, education, health, law and order, and welfare. That responsibility must be shared with indigenous Australians. Paternalistic attitudes are things of the past. We must be one Australia, not weighed down by guilt, but buoyed by hope and boundless confidence in the future, and our ability to provide a better existence for all Australians.

If this motion had been put forward with serious intent and if the Government were serious about doing something for the disadvantaged people of New South Wales irrespective of their social, cultural, religious or racial backgrounds, Labor Party members would be in the Chamber and we would be hearing from the Premier. The Minister for Aboriginal Affairs has no support in this Chamber this afternoon. Only two members of the Government are present. He has displayed gross discourtesy. The Government, through lack of Labor members in the Chamber and by the Minister's attitude, has shown contempt for its own motion.

I am seriously appalled by the breakdown of law and order in some of our western towns, the steep increase in civil disobedience, and disrespect for police. The major losers have been the Aborigines. The gap between white and black in some towns has widened because of the decay in community standards, and that is something for this Government to be truly sorry about.

**Mr THOMPSON** (Rockdale) [4.08 p.m.]: I hope to bring to this debate a different perspective from that raised by the Leader of the National Party. Sorry Day is fundamentally about facing the history of Australia since white settlement some 210 years ago. I do not mean the sanitised version of history that many of us were taught during our school years, but the real stuff, the truth. Sorry Day is a special day for me. It is a time for being especially reminded of the dreadful actions and attitudes that caused devastation and destruction to Aboriginal Australia: the dispossession, the wanton killing, and the theft of children from their families.

For me Sorry Day is a day for public acknowledgment of the truth of what has happened in this country over the last 200 years. It is a time to acknowledge the atrocities of our history, and the pain and hurt caused to indigenous people through the actions and policies of our forebears. I am not saying that we should all feel guilty; I am saying that all Australians should feel shame for those

actions and for the policies of the past. The truth is that we are all implicated in the policies of the past, but a distinction should be drawn between the direct responsibility we bear for our personal actions and our shared responsibilities as members of a nation for what has been done in the name of that nation. The former, that is, our responsibility for our personal actions, gives rise to the guilt. The latter, the shared responsibility for our nation's actions, gives rise to shame.

As members of the Australian nation we share a responsibility for what our nation has done and is doing. No-one is suggesting that any of us should feel guilty, but surely we should listen to, understand and acknowledge a part of our history that until recently has remained largely hidden. The report of the Human Rights and Equal Opportunities Commission on stolen children highlights numerous examples of horrific abuse and heartbreaking details of discrimination and loss. That report recommended the institution of a national commemorative Sorry Day to enable us as a nation to acknowledge our sorrow for past actions which grossly violated the human rights of our indigenous people. An annual Sorry Day would also be a reminder of Australia's commitment to reconciliation and to a future where such actions would never be repeated. I am disappointed that there are those who simplistically refer to the black armband view of history and the guilt industry. They say it all happened in the past and we should just get on with life. In the *Sydney Morning Herald* of 24 May 1997 comments made by Dr Alex Boraine, Vice-Chairman of the South African Truth and Reconciliation Commission, during his visit to Australia last year in his capacity as personal representative of Nelson Mandela, were reported as follows:

It was wrong to simply say "turn the page", Boraine told the National Press Club on Thursday. "It's right to turn the page," he said, "But first you have to read it. You have to understand it. You first have to acknowledge it and then you can turn the page."

In the *Sydney Morning Herald* of 25 March 1997 reporter Tony Stephens wrote an article about how Patrick Dodson had brought some of his Christian background to bear on his work towards reconciliation. The article stated:

Dodson . . . says much of the Old Testament is about the relationship between people and their land and he relates the Christian notion of redemption to Australia's need for reconciliation: "It's a strange concept in an agnostic and materialistic world, but redemption heals shame and resurrection and liberation come out of that redemption."

He speaks of shame rather than guilt. Just as Australians are proud of their achievements at Gallipoli, they should feel shame over the treatment of Aborigines.

"My grandfather saw rights to land being trampled by the hooves of cattle, rights to fair treatment being strangled by iron neck-chains and right to life being dispensed by the muzzle of a gun."

"He lived that period of history which people now say is so far in the past it should be forgotten. I say it should not be the subject of guilt—a wasted emotion—but of honesty, a reminder of what has happened, in order that the thinking behind those events does not have a legitimate place in the present."

For me Sorry Day is about honestly acknowledging the past, not with guilt but with a resolve to work together to overcome the terrible legacy that is a consequence of that past. It is about all Australians working together in empathy rather than sympathy and, having acknowledged the truth of the past, seeking reconciliation in the present and going forward into the twenty-first century as a united people and as a truly tolerant and just society.

**Mr HAZZARD** (Wakehurst) [4.13 p.m.]: As shadow minister for Aboriginal affairs I am proud to express the support of the New South Wales coalition for reconciliation. It is 12 months since I attended the Aboriginal reconciliation conference in Melbourne. Today is precisely one year since the report, "Bringing them home", was tabled in the Federal Parliament. Let me reflect for a moment on each of the momentous stages on the long path towards reconciliation. The Melbourne conference was a landmark coming together of many Aboriginal and non-Aboriginal people who supported the ambition of making Australia a reconciled, unified nation—a nation that acknowledged, understood and regretted the disadvantages, the hurt and the suffering of Aboriginal people over the past 210 years. It was a time for some to jointly reflect on what people of goodwill can achieve. It provided opportunities for Aboriginal leaders to address not only the conference but also Australia on the way forward, the way to build a better Australia.

People such as Dr Faith Bandler spoke in moderate terms about the path that had to be followed and the path that needed to be followed—a path that would see young Australians, Aboriginal and non-Aboriginal, growing up together in a land of continued hope, of shared vision, of greatness and of unity. She did not talk of guilt and I do not talk of guilt. She did not make trivial political points and I do not want honourable members to make trivial political points. The Melbourne reconciliation conference left me further inspired about the future of a unified, reconciled Australia. It was indeed appropriate and fortunate that Sir Ronald Wilson was able to attend that conference and to informally present the "Bringing them home" report. That report has been subject to criticism in some quarters.

Of course, any report on such a difficult and emotional issue as taking children away from their parents is a potential target for such criticisms.

Let me make it clear that that report should be accepted for lifting the lid on at least some of the anguish occasioned to Aboriginal families because of government policy—a policy of separation based on race; a policy of separation which often seemed focused on separation as a way of allegedly improving Aboriginal people's lives, but which simply forgot about and disregarded the fundamental truth of family life. In most situations, the family environment, despite possible hardships experienced by a young person growing up, is still the best place to be. Supporting every opportunity for a loving family life and, as part of that family life, the bequeathing of a sense of one's place in the universe is potentially the most important contribution that a community can make to the wellbeing of individuals in that community.

Many Aboriginal people who are alive today did not benefit from such a loving family life. They did not benefit from living with their own families. They have no knowledge of their place in the universe; they are trying to achieve that knowledge. Rather, they were torn away from their families and have spent their lifetimes struggling to recognise their Aboriginality and struggling to gain an identity, a basis for the development of their own self-esteem. Today many of those people are great Aboriginal leaders. I named one such leader earlier; another is Lois O'Donoghue. People such as that have gone on to become beacons for their communities, guiding lights on the path to reconciliation. As has been said by other speakers, the other challenge is to put rhetoric into reality. The path to reconciliation starts with people of goodwill and surely can be continued only by people of goodwill and action.

At present the statistics in relation to health, unemployment, education and justice leave a great deal to be desired. The Aboriginal infant mortality rate is three times higher than that for non-Aboriginal Australians. The life expectancy for Aboriginal males is 54 years compared to 73 years for non-Aboriginal men. Aboriginal females live for an average of 65 years compared to 79 years for non-Aboriginal women. Aborigines have twice the proportion of low birth weight babies. Communities in New South Wales still have limited or no access to services like water and sewerage. There are major problems for Aboriginal people suffering diabetes, circulatory diseases, ear diseases and cancer. Recently I visited a country area where I was told by local Aboriginal people that they simply could

not get jobs; the local community did not seem to want to support their efforts to get jobs. It should come as no surprise then that the average unemployment rate is 46 per cent in the Aboriginal community compared to 8 per cent for the general population.

It does not matter where one travels in New South Wales or in Australia, that unemployment level is unacceptably high. Many Aboriginal children simply do not obtain higher school qualifications. Only 7 per cent of Aboriginal children have higher school certificates. Only 29 per cent of Aboriginal children achieve their year 10 leaving certificate. All honourable members and all the people of New South Wales should support this motion. Let me say in this bipartisan acknowledgment of the reaffirmation to reconciliation that the New South Wales coalition remains committed to ensuring that the future of Aboriginal people is improved so that there is true equality for all Australians in the next millennium.

**Mrs GRUSOVIN** (Heffron) [4.18 p.m.]: I welcome the opportunity to support this motion to reaffirm our commitment to reconciliation. Only a year ago the report "Bringing them home" was released. From that report we learned of the thousands of children who were forced from their families and their culture. Since then thousands of Australians have signed sorry books and a great deal of debate has occurred. However, I sometimes despair as to whether many in our community understand what it is all about. The words of the Leader of the National Party today seem to suggest that there is an abject failure on the part of some in the community to understand why we are saying we are sorry. I wonder whether the Leader of the National Party and other Australians who seem to have a fundamental lack of understanding of what has happened have read the report. If they had, and were compassionate, they would have wept not once, but many times when reading about the dreadful things that were done, often in the name of God and mostly in a mistaken belief that white people were acting in the best interests of Aboriginal people.

When we came to Australia we dispossessed the Aboriginal people. We took their lands, their traditional way of life and their children. But we also gave them our diseases, alcohol and many other deleterious aspects of our culture, which we thought was so superior. We always thought that we knew best. We taught the indigenous people our way of life, our culture and our religions, which we thought were so much better and superior to their primitive way of life—a life that had enabled them to live in

harmony with the land for some 40,000 years. We did not realise that we could learn from the indigenous people. We were white and we knew better.

The Leader of the National Party said today that an apology is a sham if it is not followed by action. We are not talking about action; we are talking about an ability by our society to fundamentally understand that a great wrong has been done, a great injustice has occurred. We have a tremendous problem because we cannot give back what was taken away by making a financial commitment. It is not a matter of governments taking action, although many things certainly need to be done. But we can never give back self-esteem and a way of life and culture. The tragedy is that many good people thought that by taking the Aboriginal children and by destroying their culture they were doing wonderful things for these ancient people. I am terribly sad that a year after the release of the report the national leadership does not understand that our governments need to say they are sorry on behalf of the Australian people. Our children need our governments to make that fundamental acknowledgment to effect reconciliation for future generations and to ensure that the healing process is truly under way. I beg the Federal Government to understand and finally say that we are sorry.

**Mr SMALL** (Murray) [4.23 p.m.]: I am honoured to speak in the Sorry Day debate. I represent one of the most historic parts of Australia. Geologists have suggested that the life of the indigenous people in Australia started some 40,000 years ago at Lake Mungo. Lake Victoria, which is also in my electorate, has a large number of Aboriginal burial sites. From a global perspective, areas of the Murray electorate may have been inhabited by the first men and women to live on earth. Consequently, Lake Mungo, a remarkable place, has been listed as a World Heritage site. I was asked to attend a Sorry Day function by Linda Felton, the leader of the Wamba Wamba Aboriginal community at Murray Downs, which is just north of the Murray River at Swan Hill. My message, which will be read at the ceremony states:

Thank you for the kind invitation to attend your Sorry Day ceremony today Tuesday, May 26.

I would have certainly accepted and been present if it were not for the NSW State Parliament sitting this week, and in view of this I sincerely apologise for my absence.

In a changing world and particularly here in Australia when today we are such a multicultural nation, but still without question one of the best countries in the world, not over

populated, with good clean air and a very large land mass and a sound environment we can share and enjoy.

I take this "Special Sorry Day" opportunity to congratulate the Wamba Wamba Aboriginal Community at Murray Downs for the exceptional strides and advances that you have achieved through your own initiative, encouragement and willpower.

Working in harmony with leaders and the greater community around you, you have done yourself proud and few if any other settlements have created and built such a beautiful enterprise as you have, and I wish to congratulate each and every one of you, as you can be so pleased of your achievements and I admire you greatly for this good work!

Your homes, your "work place" and "culture centre", including the resourceful hydroponic food producing facility of up to date technology, which puts you in a bracket worthy of the highest praise!

In years of yesterday many happenings occurred and unfortunately not in the best interest of the Aboriginal community as the indigenous people of Australia. Today we unify on this "Sorry Day" and look to reconciliation over any wrong doings, and something we wish never happened. But I can assure you that I have the greatest respect for all people and how we must work in harmony with goodwill and good spirit for our own future together as Australians!

May God Bless you and keep you.

Within the Murray electorate are the Namatjira settlement at Dareton and Aboriginal communities at Balranald, Hay, Wamba Wamba at Murray Downs, Moonacullah, which is west of Deniliquin, and Cummeraganja at Moama. Indeed, some of the members of this House will be at Cummeraganja next week. I grew up in an Aboriginal neighbourhood, the Moonacullah community, and enjoyed working with the Aborigines who were employed by my father on our property. I was greatly concerned when the 13 families in the Moonacullah community were moved to new homes in Deniliquin against their wishes. Many of those Aboriginal families are now moving back to take up their homeland at Moonacullah, which is west of Deniliquin. In the past governments have made mistakes by attempting to relocate Aboriginal communities in towns. By acknowledging this Sorry Day I express my thanks and gratitude to the Aboriginal people.

**Mr MILLS** (Wallsend) [4.28 p.m.]: I am sorry that for five generations or more non-indigenous Australians removed Aboriginal and Torres Strait Islander children from their families. That was done using laws passed by this Parliament and other Australian Parliaments. I am sorry for the immeasurable hurt and harm done to those Aboriginal people who were stolen from their families. The hurt and harm will go with them as long as they live. I am very pleased that the report of the national inquiry into the removal of

Aboriginal and Torres Strait Islander children from their families, tabled a year ago today, recommended that a Sorry Day be held, a day when all Australians can express their sorrow for the whole tragic episode, a day when we can all celebrate the beginning of a new understanding.

I am thankful that the New South Wales Parliament has taken a leading role in acknowledging the crimes of the past. When this Parliament last recognised the trauma and hurt of the past and apologised we were able to go forward together united as Australians, indigenous and non-indigenous. I am thankful for the advice of the Governor of New South Wales, Gordon Samuels. In the *Sydney Morning Herald* of 3 June last year he was reported as saying:

The healing process requires that the mere recognition of the infliction of past suffering be supported by the sincere expression of the feelings of sorrow and regret which those events must stimulate in all of us.

Who in this Parliament will forget the emotion and the impact of the speech in this Chamber in June last year by Nancy de Vries, one of the stolen children? We should reflect on her words:

I was taken away from my mother at the age of 14 months and my journey as a lonely, homeless and unloved child began. Nobody could really understand the loneliness of an Aboriginal child in a non-Aboriginal environment who has nobody whatsoever around them, who is not treated the same as the other children in the home who are not Aboriginal, who is isolated, who is lonely, who cries at night, and who cries during the day. You could not possibly comprehend the life of that child . . . This not only affected my life; it affected my children's lives too . . . Thank God it is not affecting my grandchildren . . . They are proud of their Aboriginality. They know who they are, and they know where we are going. I will protect their rights to the last breath in my body.

I am sorry for all the acts of discrimination against Aboriginal and Torres Strait Islander people in the past. I am sorry that after the invasion Aboriginal land was stolen from them by military force, without treaty, without compensation. The British Crown developed the legal lie of "terra nullius"—empty land, a despicably racist lie. The dispossession by violence was followed by the impact of exotic diseases, by exclusion from the Europeans' economic life, by racist rejection and ultimately by the attempt to destroy the Aboriginal and Torres Strait Islander people by tearing apart their families and their culture. I have signed the sorry book. I hope all members of this Legislative Assembly have signed it. The *Sun-Herald* of 24 May reported that people of Sydney clearly agree with the bipartisan position of the New South Wales Parliament. It stated:

Most of the 602 people polled across Australia felt that white-Aboriginal relations should be marked by a special day . . . 59 per cent of Sydneysiders said they would be prepared to sign a sorry book to make a personal apology for the country's treatment of Aborigines.

I am proud to represent in this Chamber the Hunter region, which has been at the forefront of practical efforts in working towards reconciliation. Since 1981 I have been a member of the Newcastle Aboriginal support group, which was founded to build bridges by a group of non-indigenous people with the advice of local indigenous leaders. The founding leader was schoolteacher Jack Doherty, who died five years ago. In memory of Jack the group set up yearly scholarships for Koori students at the University of Newcastle. On 1 May Professor John Lester, Professor of Aboriginal and Torres Strait Islander studies at the University of Newcastle since the beginning of 1998, presented four scholarships for this year at Wollotuka Aboriginal Education Centre. Newcastle publishers Paul Walsh and Susan Harvey conceived a fundraising project to celebrate the Newcastle bicentenary in 1997 by publishing a collection of short stories called *Novocastrian Tales*. Five of the 20 or so authors were Aboriginal writers. Proceeds from the sale of the book will build a residential hostel for families of Aboriginal inpatients of John Hunter Hospital, many of whom come from the north coast. The hostel is part of the Aboriginal health plan launched by the Minister for Aboriginal Affairs. The project is going ahead: the first sod has been turned. [*Time expired.*]

**Ms FICARRA** (Georges River) [4.33 p.m.]: It is with great pride that I support this motion in a bipartisan manner, as other speakers have. It has been an honour to do so as the member for Georges River because Georges River has a very rich and well-recorded history of indigenous settlement. It is a great honour to represent the Leader of the Opposition on the New South Wales Aboriginal Reconciliation Committee. Yesterday the member for Keira and I attended a very moving ceremony. I pay tribute to the New South Wales State reconciliation committee and the National Parks and Wildlife Service for their commemoration of National Reconciliation Week yesterday at Botany Bay National Park. The meeting place was Kurnell, the landing site of Captain Cook. Many indigenous people would have sad memories and would have heard sad stories told to them by their parents and grandparents.

There seems to be a great deal of controversy about Sorry Day. I think it is because we are taking it in the wrong way. We are not saying that we

personally hold any guilt for any actions. My family came from Sicily, from Italy, and they played no part in the atrocities that were inflicted on indigenous people. But it is important that Australians, whether they were born here or came from overseas, recognise the truth. It is a day of recognition and remembrance as significant to the indigenous population as Anzac Day is to all Australians. It is a day of reconciliation, a commitment to reconciliation. The absolute truth has to be taught in all schools. As we demand that Germany teaches about the Nazi period and that Japan teaches about what happened in the Second World War, so here in Australia we should teach the truth. Not all actions perpetrated on indigenous communities were bad; some were very good and done with the best intentions. Unfortunately, we now know that the social consequences of some of the actions stigmatised families for a long time. It is only the current generations that are beginning to get over that. It is time to move on but it is good to acknowledge the truth about our past.

We should learn to live together harmoniously. We should concentrate on those areas of Aboriginal welfare which are sadly lacking—health, housing, education and employment. Many speakers in the past have referred to our bad track record. There should be a commitment to work with the indigenous communities to empower them in the decision-making process. Indeed, they should be brought into this Parliament. I would love to see the day when indigenous people are represented in both the upper House and the lower House. All the political parties should have a commitment to bringing in indigenous people and empowering them and getting them into Parliament. That is the only way, to work in harmony with a continuous commitment. I was moved by this statement by Elliott Johnston, QC, royal commissioner into Aboriginal deaths in custody back in 1991:

... until I examined the files of people who died and other material which has come before the Commission and listened to Aboriginal people speaking, I had no conception of the degree of pin-pricking domination, abuse of personal power, utter paternalism, open contempt and total indifference with which so many Aboriginal people were visited on a day to day basis.

Those words are a sad and sorry reflection on the past but it is good that we are acknowledging what occurred. As the honourable member for Wallsend said, almost two-thirds of Australians believe that all Australian parliaments should officially acknowledge the nation's responsibility for the previous laws and policies which led to the forced removal of Aboriginal children from their parents. It was abhorrent regardless of the motives. History should

never repeat itself. We should acknowledge it, teach it and move forward in a true spirit of reconciliation, racial tolerance and harmony. I commend the motion to the House. [*Time expired.*]

**Mr WATKINS** (Gladesville) [4.38 p.m.]: The stolen generation is not an issue of the past. The official policy of stealing Aboriginal children finished in 1969, in our generation, but its impact remains with us today in the lives of thousands of people across this nation. The passage of years has never been a reason to deny past injustices, and last year that was recognised by the stolen generation report and the establishment of National Sorry Day. On this most significant day it is appropriate that we in the New South Wales Parliament acknowledge its importance. The fact that Bennelong, the first stolen person taken from his people and country to the United Kingdom, is buried by the Parramatta River in my electorate is only part of the reason I am inspired to speak. Far more important is the urgency that should drive all members of this Parliament—an urgency to stand up for justice, to recognise past wrongs, and to work for a common future.

National Sorry Day gives us all the opportunity to embrace that urgency and to again state clearly our sorrow for the past and our hope for the future of those indigenous people who were taken from their families and loved ones, from their homes and their lands. No community can move forward without acknowledgment of past wrongs. That allows reconciliation and forgiveness. Never before in Australia have we had the opportunity to publicly recognise our past and our common future. Because we have faced past wrongs, we have removed that shadow across our legitimacy as a nation and can now face the future free from that burden.

Clearly it is not enough to simply say sorry and leave it at that. There is an urgent, ongoing need for committed government action to address medical, housing, educational and social problems amongst indigenous people. In an unfortunate speech the Leader of the National Party seemed to suggest that this debate was simply an exercise in political correctness; that it was unnecessary; that there was real work to be done. The reality is that if this need for sorrow and the importance of reconciliation are not accepted, the rest—the funding, the concerted action, the necessary programs—will not follow. That is evident from the Federal Government's disgusting actions in slashing the budget for the Aboriginal and Torres Strait Islander Commission.

It is easy for them to continue to turn a blind eye to the past sufferings of indigenous people and



to responsibility for them. Today is a day of serious contemplation and reflection on past wrongs. It is also a day of celebration at the resilience and vitality of the Aboriginal people and their ability to survive the years of torment inflicted on them by European civilisation—a torment that was especially graphic and heartfelt for those families subject to separation. It is also a day of celebration for the people of Australia and New South Wales. It is a great day to be a citizen in a community that has finally acknowledged the truth of the past, and to live in a society where our institutions are now based on a just and proper legal basis.

The Mabo and Wik decisions and the Native Title Act have recognised the legal fiction of terra nullius and wiped clean the invalid land title regime, in place since settlement, that disfranchised Aboriginal owners. As Mabo, Wik and the Native Title Act restored the legal position, the stolen generation report acknowledges the human cost of the past mistreatment of Aboriginal people. The Australian people have embraced the process of setting right both the legal and human injustices. That process is a sign of our maturity as a nation. It is a proud day for our State and our Parliament.

However, our pleasure in this day is significantly diminished by the position of the Prime Minister in not offering an apology on behalf of the Australian people and the Australian Government. It is a tragedy that the Federal Government and the Prime Minister cannot match the expansiveness, quiet dignity and forgiveness of the Aboriginal people who suffered under the regime that separated them from their families. One could understand if they harboured resentment and were slow to embrace reconciliation, but unfortunately it is the Prime Minister and his Ministers who show reluctance and resentment. I had hoped that after a year it would have been easier for the Prime Minister to act. That has not happened. I can only hope that eventually he will be moved by the clear intention and will of the Australian people to embrace reconciliation and he will turn away from the meanness of spirit and narrowness of heart that prevents him from apologising to these most worthy people. It has been a great pleasure and honour for me to take part in this debate.

**Mr CHAPPELL** (Northern Tablelands) [4.43 p.m.]: I want to speak in this debate today for several reasons. I wish to reiterate what I said to the House on 18 June last year. To paraphrase my presentation, I said that I had great sympathy for the Aboriginal people who were subjected to forced separation from their families for no reason other than their race. As a public policy, that was wrong.

Parliaments over many years got it wrong. As a member of this Parliament I am very willing to say that I am sorry. I meant it when I apologised on 18 June last year and I mean it to this day.

I do not support an ongoing National Sorry Day to institutionalise what was a genuine expression of sorrow. Earlier today we were told that it does not hurt to say sorry and it does not imply personal guilt. I agree. But that does not mean we should establish a recurring, formalised process of stirring up notions of shame and guilt. Continuing to say sorry time after time does not add one jot to the quality of sorrow genuinely felt and expressed. Let us by all means say sorry. Many people spoke in this House last year, as I did, and said they were sorry. However, having said sorry for past injustices, now is the time to move on. Now is the time to build a positive relationship between black and white.

As members of this Parliament, citizens of this land and members of local communities, our task is to build a positive relationship between black and white and to look forward to constructive and honourable relationships between the first people of this country—the Australian Aborigines—and the white and other descendants of early European settlers, including the most recent migrants who choose to join us. Sadly, we cannot give back many of the things that were lost to generations of Aboriginal people. Even focusing on the current urgent needs of most Aboriginal communities for improved health services, better education, vastly improved job opportunities, a sense of justice and a hope for the future cannot change the past; it cannot undo what has been done.

In future years I will not sign sorry books or speak in National Sorry Day debates. Today will be the last time I will speak in such a debate in this Chamber, if it is to be an annual event. However, I intend to maintain my friendship with the many fine Aboriginal people whom I am proud to count amongst my friends. As in the past I will continue to serve the Aboriginal people of my electorate equally and as fairly as I can, and with the best goodwill that I can muster to meet their needs and expectations. Let us build the future. We should not ignore the past but we should not dwell on it either. True reconciliation relates more to the future than to the past.

I will happily, willingly and with personal pride work with Aboriginal people to achieve real reconciliation and to build a just society. Let us all focus on building the future, getting it right from now on, and repairing what damage we can for

those who still suffer. Unless we do that, expressions of sorrow—whether in the form of a recurring annual National Sorry Day, signing sorry books, or doing other organised, structured, institutionalised things—will not add anything. Saying sorry will not count unless the policies are right; unless our hearts are in the right place and we are prepared to walk side by side with our Aboriginal friends on issues that affect all families and communities on a daily basis. Let us get that right. Let us focus on the future. We should not forget the past, but we should not dwell on it.

**Ms MOORE** (Bligh) [4.48 p.m.]: Unlike the honourable member for Northern Tablelands, I strongly support National Sorry Day. I strongly support the motion that this House reaffirms its commitment to reconciliation. I do so as an Independent member of this House, a former Redfern ward alderman for six years, a long-time Redfern resident and, like the Leader of the Opposition, a parent. As I did a year ago in this Chamber, I apologise unreservedly to the Aboriginal people of Australia for the systematic separation of generations of Aboriginal children from their parents, families and communities. I believe we must recognise and acknowledge what has happened, and that it is quite proper to do so through a National Sorry Day. This recognition and acknowledgment will give support to members of the Aboriginal community as they grieve—as they will have to do over a long period of time—and attempt to heal the hurt of the past. It will take all of their lifetime and the lifetime of their children to do so.

The policy of separation, which was pursued until 20 years ago, was based on ignorance and paternalism. The policy emanated from this very Chamber. Laws were enacted that led to the shocking dislocation and destruction of the original inhabitants of this country—inhabitants for over 50,000 years. I believe the majority of fair-minded and right-minded Australians who live in our cities had no knowledge of what was happening to the Aboriginal community. I believe if they had known they would have strongly opposed that policy.

Abhorrent laws of the past stress to members of this House the importance of proper questioning, proper scrutiny, and proper accountability in this Parliament, and how important it is not to keep the community in ignorance of the policies enacted in this Parliament. I am sorry for what has happened in the past. I will do everything I can as a legislator to work for the Aboriginal community in the future. Like other honourable members, I believe that a commitment to reconciliation is the only way forward for a future in which Aboriginal and non-Aboriginal Australians can share this country. Let us

acknowledge honestly what has happened. Let us remember with reverence and sorrow. Let us say sorry, and prepare to move together into the next century.

**Dr REFSHAUGE** (Marrickville—Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [4.52 p.m.], in reply: I thank the Leader of the Opposition, the honourable member for Keira, who is Parliamentary Secretary for Aboriginal Affairs, the honourable member for Rockdale, the honourable member for Wakehurst, who is shadow minister for Aboriginal affairs, the honourable member for Heffron, the honourable member for Murray, the honourable member for Wallsend, the honourable member for Georges River, the honourable member for Gladesville, the honourable member for Northern Tablelands and the honourable member for Bligh for their contributions to this debate.

Sorry Day is an important step towards healing and recognition of survival. The National Sorry Day Committee chose today as National Sorry Day. There is no more fitting day for us to acknowledge wrongs, unite in action and reaffirm our commitment to a just future. A year ago today "Bringing them home" was tabled. It was also a year ago today that the national Reconciliation Convention made it clear to us all that reconciliation is a people's movement. It will be 31 years ago tomorrow that there was a resounding yes vote in the 1967 constitutional referendum that endorsed the right to citizenship for Aboriginal people.

I believe that the time is quickly approaching when Aboriginal people will have a direct voice in this Parliament. From here we must move forward and we must be seen to move forward. Thousands of people outside this House want to know that this Parliament, through bipartisanship, remains strongly committed to reconciliation. The New South Wales Government and the stolen generations working group are working together in partnership. Through partnership we will be able to ensure that current and future government programs and policies meet their needs. I believe the response of this House today strongly reinforces our commitment to reconciliation.

**Motion agreed to.**

## **FEDERAL HIGHER EDUCATION FUNDING**

### **Matter of Public Importance**

**Mrs BEAMER** (Badgerys Creek) [4.56 p.m.]: There is an urgent need to bring to the attention of honorable members of this House the implications of John Howard's disastrous policies on higher

education. Particularly worrying are the recent funding cuts to universities, confirmed in the recent Commonwealth budget, and the implication of the Commonwealth's West review of higher education. In the last three Federal coalition budgets there have been significant changes to the Federal Government's funding of higher education. I believe those funding changes have put the proper roles of universities at risk. The magnitude of Howard's funding cuts to universities is massive. Those cuts are having a major impact on universities and on the community of New South Wales.

The Commonwealth cuts to higher education funding over the budget periods 1995-96 to 2001-02 inclusive amount to a national total of approximately \$975 million, or a cut of 23 per cent in real terms. The largest cut in one year will fall in 1998-99, the coming financial year, when approximately \$388 million nationally, or 9.8 per cent in real terms, will be cut from higher education funding. This will have a substantial negative effect on the wider community as well as on the universities themselves. The impact of those cuts on New South Wales is in the order of one-third of the total national impact. The implication of the cuts is a wiping out of all the funding gains made by the higher education sector over the period 1990-91 to 1994-95. The cuts will return higher education funding to pre-1990 levels.

In addition, the impacts are based only on the discernable cuts to university funding announced explicitly in the Commonwealth budget papers. They do not take into account the added, and insidious, impacts of the lack of supplementation to universities for academics' salary increases. This impact will be considerable and will result in an effective national cut to university funding well in excess of the \$975 million over the period 1995-96 to 2001-02. Major reductions in funding to higher education were announced in the 1996-97 and 1997-98 Commonwealth budgets. The 1998-99 budget has failed to redress these cuts, and thereby has entrenched them and their effects more deeply in our national education system. These cuts have not been confined to reductions in universities' operating grants; they have also been extended to special programs, such as the industry places scheme. They have also been accompanied by increased higher education contribution scheme charges.

The increased higher education contribution scheme charges have impacted heavily on individual students and their families, on universities and on the community as a whole. I do not oppose change of itself. Most systems and structures need to work better; they can be improved and invigorated. But we should not tinker with universities without

carefully considering the negative impacts of those changes. Access to universities must be available to all students who are intellectually capable of achieving the required high standard of learning. That access must be provided equitably. The effect of the Federal coalition Government's cuts to higher education were made clear at the beginning of this year. A number of students contacted the Minister's office to say they had missed out on the university course of their choice by a fraction of the tertiary entrance rank, TER. There is nothing unusual about that. The TER, and from this year the universities admission index, is used as a screening mechanism to select the most capable students for university entry.

The TER may be an imperfect mechanism, but it remains the primary means by which students are selected. But it was not this selection process that infuriated these people. It was the fact that other, lesser performing students had gained access to the same courses on the basis of another selection process altogether—not on the basis of open and fair selection, with criteria related to academic merit, but on the basis of private capacity for a student to pay some \$10,000 or more per year. Wealth has become the criterion and the means by which the lesser qualified can leapfrog the more qualified but less privileged students to do the courses of their choice. This is not my idea of equity. I know it is not the community's idea of equity.

It is one thing to have a selective higher education system, with the competition for entry based on relevant, valid and fair criteria. It is another thing entirely to have an elitist higher education system based on wealth, particularly when that wealth was acquired by parents who had access to a publicly funded higher education system. This unfair situation is a result of the Federal coalition Government tinkering with the future of education in this country. Universities have become inaccessible for these students as a result of savage Commonwealth higher education budget cuts since 1996-97 and other measures such as increased HECS charges, that is, higher education contribution scheme charges, aimed at reducing the Commonwealth's contribution and transferring the cost of higher education to students and their families.

New South Wales faces heavy losses of full-time student places to the year 2000. There will be substantial losses of both undergraduate and postgraduate places. For aspiring young people and their parents, and the community as a whole, these cuts to undergraduate places in New South Wales are a national disgrace. Of the \$11 million in capital

development pool funding allocated for the year 2000, New South Wales received only \$1.7 million, or 15 per cent. Given that New South Wales has a 33.7 per cent share of the group between 17 and 64 years of age, the allocation to New South Wales is highly inadequate. The abolition of the Commonwealth industry places scheme alone will cut \$64.7 million nationally from higher education and will result in the loss of 4,270 undergraduate places. The losses in New South Wales will not be felt equally across the State. They will be felt particularly on the central coast, north coast and south coast of New South Wales and in western Sydney, where newer universities are striving to promote much-needed participation in higher education.

In western Sydney, as well as in other regional areas, there are real concerns about the impacts of Commonwealth funding cuts and increased HECS charges. From 1993 to 1996 participation rates at the University of Western Sydney by students in the local area doubled, from about 30 per thousand in the age group between 17 and 64 in 1993, to 55 per thousand in 1996. This clearly demonstrates the demand in the greater western Sydney region. In 1996 the participation rate in higher education for the rest of metropolitan Sydney was about 70 per thousand. The University of Western Sydney was therefore making substantial headway in redressing this participation imbalance.

There are real concerns that capacities to meet this demand for higher education will be under significant challenge from the Commonwealth's funding policies. In addition to the massive Commonwealth cuts, the University of Western Sydney has had to carry the burden of providing for substantial academic salary increases of at least 6 per cent in the last 12 months. As with all other universities, the Commonwealth has refused to provide any supplementation to fund these increases. In effect, this amounts to a double cut and its impact will be substantial. To compensate for these cuts the Federal coalition Government has cynically invited universities to offer full fee-paying undergraduate places to Australian students. This means that the people of western Sydney who are striving to use those facilities will be severely disadvantaged. The Federal Government cuts will mean that fewer university places will be available for students who wish to take them in this massive region of Sydney. I implore the House to make its concern known to the Howard Government. [*Time expired.*]

**Mr O'DOHERTY** (Ku-ring-gai) [5.06 p.m.]: To pick up where the honourable member for Badgerys Creek left off in relation to fully funded

places at the University of Western Sydney, figures provided by the Commonwealth show that the number of fully subsidised places at the University of Western Sydney in 1998 is 17,645; in 1999 the number will be 17,705, which represents a small increase; and in 2000 the number of places will be 17,645—precisely the same number of places as are being provided this year. Having regard to the figures that have been provided for the forward estimates and which are publicly available, the suggestion of the honourable member for Badgerys Creek that there has been a cut in funded places at the University of Western Sydney is a complete fabrication—and she knows it. If the honourable member cannot do her homework, she should not speak in this House on such an important matter.

The facts are these: this year there are 10,000 more undergraduate places across Australia than there were in 1996—that is, a total of 361,925 places. There is a record number of undergraduates at universities in Australia this year as a result of the policies of the Howard Federal Government. By 2000 an extra 4,000 places will be provided. The number of undergraduates in Australian universities will be 14,000 more than under the Keating Government, which was discredited—a government whose higher education policies have been undermined even by one of its key members. That is a matter to which I will refer later. Universities throughout Australia currently have record total enrolments, including both fee-paying enrolments and over-enrolments. Early estimates put the total number of domestic enrolments at more than 456,000, compared with Labor's record of 439,000 in 1996. That represents a 3.9 per cent increase under the Howard Government. Under the Howard Government a record number of Australians are participating in higher education. That shows where the priorities of the Federal Government lie. There is record participation in higher education, but also in vocational education—something for which the Labor Party stands condemned by its members. I will return to that in a moment.

In regard to funding of higher education, the total revenue of the sector for 1998 is \$8.55 billion—that is \$550 million more than in 1995 and \$240 million more than in 1996. In other words, under the policies of the Howard Government the sector is growing in revenue terms. That is an important way in which to analyse the sector, particularly given the various pressures on higher education, not only in Australia but also around the world. Operational grants given by the Federal Government for full-time places, or equivalent full-time student units—the so-called EFTSUs—are increasing under the Howard Government. They are

\$11,406 in 1998, compared with \$11,300 in 1996. Research funding has increased under the Federal Government. For example, research funding for EFTSUs is \$1,091 in 1998, compared with \$955 in 1996—another increase under the Howard Government.

Enrolment patterns show no evidence that HECS changes have discouraged enrolments in particular areas, despite what the honourable member for Badgerys Creek has just told the House. For example, compared with 1996 enrolments, in band one HECS fees have increased by 1.8 per cent; in band two they have increased by 1.6 per cent; and in band three HECS fees have increased by 11.1 per cent. Science enrolments have increased by 1.85 per cent. Those are some of the facts, as opposed to the emotional rhetoric of the honourable member for Badgerys Creek. Rod West said, in his review of higher education—a much-needed review that will have wide-ranging implications for higher education discussion in the future:

many people expressed a feeling that higher education is beginning to lose its way.

One could add the subtext, "was losing its way under the Labor Party Government". Rod West continued:

A new focus and new strategies are required to consolidate past gains and meet future challenges in vastly altered circumstances.

That is not just Rod West's view; it is the feeling of the entire sector. Referring to Rod West's comments the vice-chancellor of Monash University, Professor David Robinson, said:

[This report] made explicit what everyone knows is happening anyway: that student mobility across institutions can only rise as students put together the kind of educational experience that they want from various universities.

In other words, vastly increased mobility across the sector is driving changes in higher education. Increased competition in the sector comes from students, not from any of the ideological considerations that the honourable member for Badgerys Creek tried to foist on this House. The same thing is happening overseas. Significant problems are heading our way because of the downturn in Asian economies, another factor that has an effect on places and may even drive them down in the near future. No doubt the honourable member for Badgerys Creek will blame the Asian economic crisis on John Howard. In its long time in government the Labor Party got it wrong. Do not take my word for it, consider what Peter Baldwin, a former Minister for higher education in a previous

Federal Labor Government, said in an article in the *Australian* of 13 May 1998:

For a period there we managed to get the message out, particularly to young school-leavers, that the only thing worth doing by way of further education and training was to go to university.

That was a very unfortunate perception because one of the features that we need in our education and training system is an appropriate balance between what's described as vocational education and higher education.

He was reported as saying that despite carefully focused equity programs Labor governments had not increased the proportion of people from disadvantaged socioeconomic backgrounds entering university. The Government could not have been too carefully focused, given what Peter Baldwin said. He knows the truth. Despite the claims of the honourable member for Badgerys Creek, the proportion of people from disadvantaged socioeconomic backgrounds—the people she is supposed to represent—entering university has not increased. In the same article he said:

A lack of coherent policy in the whole area of education and training, including the structural overhaul of the 1980s—the Dawkins reforms—gave little thought for the implications for the vocational sector.

The article was a damning indictment of his former Government's policies. According to Peter Baldwin's criteria, the previous coalition Government in New South Wales was getting it right at the time Labor was getting it wrong. The former coalition Government provided for the smooth transition and cross-accreditation between TAFE courses and university courses. New South Wales, under a coalition Government, led the way in bringing vocational training into the higher educational sphere. The coalition set up the pathways program, the formal credit transfer arrangements between TAFE and universities, the beginnings of the Nirimba campus, Coffs Harbour, and Ourimbah, which had its first graduation a week ago in its own right. That is what the coalition was doing in New South Wales when, according to Peter Baldwin, the Labor Party was getting it wrong federally.

The Labor Party is about to get it wrong again. I am glad to have this opportunity to dissociate the coalition from what the Labor Party is trying to do to the University of Western Sydney. Mark Latham, Federal Labor's current Opposition spokesman for education, wants to have another go at what the Minister for Community Services, the Minister for Energy and others from the Labor Party sitting opposite wanted to do to the University of Western Sydney before they came to office in New South

Wales. Mark Latham, once again, wants to carve up the University of Western Sydney. He wants to take away the south-western area and create a separate institution. The attitude of the University of Western Sydney is: please keep your hands off our university.

The Vice-Chancellor of the university, Janice Reid, said that she was puzzled by the comments made publicly by Mr Latham in an article in the *Australian* of 13 May 1998. She said the university was already providing flexible delivery and accreditation across sectors. She said she does not know what Mark Latham is on about, but I do. The Labor Party has always had a secret agenda to carve up and diminish the University of Western Sydney. The Minister for Community Services and the Minister for Energy made the promise before the State election; Mark Latham made the promise before the Federal election. The Opposition in New South Wales has no plans to water down the University of Western Sydney. Labor should hang its head in shame.

**Pursuant to sessional orders business interrupted.**

**CONDUCT OF JUSTICE VINCE BRUCE AND  
MAGISTRATE IAN LANHAM ROSS  
McDOUGALL**

**Reports**

**Mr AQUILINA** (Riverstone—Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs) [5.14 p.m.], by leave: I table the following reports:

- (1) Report of the Conduct Division of the Judicial Commission of New South Wales to the Governor regarding complaints against the Honourable Justice Vince Bruce, dated 15 May 1998.
- (2) Reasons of the Honourable D. L. Mahoney, AO, QC, regarding the Honourable Justice Bruce, dated 14 May 1998.
- (3) Response of the Honourable Justice Vince Bruce to the report of the Conduct Division of the Judicial Commission, dated 26 May 1998.
- (4) Report of the Conduct Division of the Judicial Commission of New South Wales regarding complaints against Magistrate Ian Lanham Ross McDougall, dated 11 May 1998.

**PRIVATE MEMBERS' STATEMENTS**

**CASINO COMMUNITY BENEFIT FUND**

**Ms NORI** (Port Jackson) [5.15 p.m.]: I would like to praise the casino Community Benefit Fund

for some of the choices it has made in supplying funds to the community. I want to draw the attention of the House to three very worthwhile organisations in my electorate that have received funding. The Forest Lodge After School Care Association—FLASCA—which is associated with Forest Lodge Public School, will receive \$15,000 over two years to assist with the establishment of a homework learning centre, equipped with computers and educational programs, to cater for the learning needs of the disabled. My children attended the Forest Lodge Public School when they were in primary school.

They are now in high school and, unfortunately, will not benefit from the fund, but I am pleased that the school, which runs an active and well-attended after-school care program, will receive the funds. It is very important that kids who have to stay at school until 6.00 o'clock at night have proper facilities to do their homework. It is certainly something that was lacking when my kids attended the school. Glebe Youth Services Incorporated will receive \$30,000 over one year to assist with the purchase of a range of equipment to enable the provision of recreational and educational programs for young people. It is very easy for people to think of suburbs like Glebe, Balmain and Rozelle as gentrified. Although that is true, there is still a core of underprivileged people living in those suburbs.

**Mr Brogden:** Like my grandmother.

**Ms NORI:** Like the honourable member's grandmother. What happened to him? Glebe Youth Services will provide a range of services for the young people of Glebe. I am also pleased that the Older Women's Network, based in Millers Point and also in my electorate, will receive \$20,000 over two years to assist with the employment of workers to co-ordinate a range of activities for older women. Some of the organisations that have been successful in gaining funds from the Community Benefit Fund come from regional areas. Every member of this House would be pleased to see that so many worthwhile regional projects have been successful in their applications for funds. The casino Community Benefit Fund has a vision based on the desire to reduce the negative impact of gambling and to benefit the people of New South Wales through the responsible administration of the fund.

The main aim of the fund is to assist problem gamblers, which is very important. The fund will allow the casino to be a good corporate citizen. It provides funds for organisations that otherwise would have to be funded by the taxpayer, not funded at all, or wait for the local community to do the fundraising. I have always believed that Sydney needed a casino. My only concern was its location.

It is too late now, but it is a great pity that the former coalition Government and the Independents did not see fit to support the then Labor Opposition in its attempt to relocate the casino within the Darling Harbour precinct but away from the residential area.

I am pleased that we have the casino; I think it is a wonderful venue. But I still believe that it would have been better located away from the residential community of Pyrmont and Ultimo. As I said earlier, it is important that Sydney has a casino. It obviously improves our tourism prospects. There are plenty of statistics and figures that show just how well-patronised it is by tourists. It has obviously added a cultural dimension. We would not have a lyric theatre of such quality if the casino had not been built. The casino has obviously helped State revenue, something all politicians want to achieve. We need dollars in order to be able to provide communities with the benefits that they require. Clearly, it has been a significant factor in increasing employment opportunities for a lot of young people in the service industry.

**Mr AQUILINA** (Riverstone—Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs) [5.20 p.m.]: I congratulate the honourable member for Port Jackson on bringing this community benefit to the attention of the House. As she said, the casino Community Benefit Fund is a wonderful innovation which ensures that some of the proceeds of casinos are directed towards worthy causes in New South Wales. She referred in her speech to the fact that many people have benefited from that fund. As Minister for Education and Training I was pleased to note that some of the first beneficiaries were children in our more disadvantaged schools. Funds have been allocated to provide breakfast for those children. Unfortunately, many children do not have breakfast before attending school—a substantial impediment to improvement of their educational opportunities—and that need has been substantially addressed.

The honourable member for Port Jackson referred to a number of organisations that have benefitted from this fund, but I would like to add another. Youth Insearch, based at Riverstone, received \$40,000 in funding. Youth Insearch, a unique organisation under the directorship of Mr Ron Barr, OAM, looks after the needs of adolescents and young people generally, many of whom are vulnerable to drug addiction and various forms of abuse. That organisation does outstanding work. I take this opportunity to congratulate Ron Barr and his staff on the wonderful work they do

and on the assistance they provide to many young people in Sydney's west through Youth Insearch at Riverstone.

### SEVEN HILLS CAR PARK SURVEILLANCE

**Mr MERTON** (Baulkham Hills) [5.22 p.m.]: I have been contacted by Mrs Jennifer Clements of 3, Boonal Street, Baulkham Hills, who brought to my attention the fact that three weeks ago she returned to her car which had been parked in the car park at Seven Hills railway station only to find that it had been broken into, damaged and immobilised and the car had to be towed away. That extremely distressing experience for Mrs Clements resulted in her being stranded at the station for two hours. Furthermore, Mrs Clements was without her vehicle for two weeks, and it cost her \$375 dollars in insurance excess. When she shared her experience with others she stated that it seemed that every person she had spoken to had either had it happen to him or her or at least knew someone who had experienced problems at the Seven Hills car park.

In February last year Tracy Hicks, also of Baulkham Hills, advised me of a similar problem. She returned to her Toyota, which had been parked in the Seven Hills car park, only to find that it had been vandalised. When she reported the incident to the Seven Hills police station she was advised that it was the ninth complaint that had been received. At the time Mrs Hicks queried why such a thing could have happened when the car park was supposed to be under video surveillance. On 24 February 1997 I made representations to the former Minister for Transport, Brian Langton, querying the video surveillance at the Seven Hills car park. After many telephone calls and faxes from my electorate office to the Minister, I finally received a response from the Parliamentary Secretary for Transport, Kevin Moss, dated 5 August 1997, almost six months after my initial representations were made. He stated:

CityRail has advised that the CCTV surveillance equipment was initially installed in the station master's office when the car park adjacent to Seven Hills station was expanded in September 1996.

However, this was only a temporary arrangement until the Department of Transport could finalise the terms of an agreement with Seven Hills police transferring responsibility for monitoring the surveillance equipment to the police. Unfortunately, during this interim period, CityRail was not in a position to provide full time monitoring of the equipment due to the costs involved and the lack of resources.

I am advised that an agreement was finalised on 18 March (i.e. in 1997) for the CCTV surveillance system to be monitored by the local police. Accordingly, the equipment was relocated to Seven Hills police station from its temporary location and is now fully operational.

That was almost 14 months ago. Yet another constituent has experienced disaster in this same car park. Mrs Clements requested advice as to the situation relating to video surveillance at the Seven Hills car park. She wants to know who looks at these video tapes and who maintains the cameras. Mrs Clements stated on the day that her car became a statistic that a pole supposedly carrying a video camera was lying on the ground. This lady would like to be able to catch the train to work at Strathfield. She says that the service is regular and efficient and she agrees that we must all try to reduce the use of private cars wherever possible. She had been catching the train to work for only eight days before disaster struck.

Now she does not have the confidence to leave her car at this car park. In her words "It is so frustrating to have that wonderful multilevel car parking facility at Seven Hills station and to feel too afraid to use it." I urge the Minister for Transport to immediately investigate the video surveillance equipment located in the car park at Seven Hills railway station. I have said many times in this House that people living in The Hills area do not have a rail service. I am fighting to try to get a rail service for them. Many people park their cars at the Seven Hills car park and catch the train on the western line to Sydney. There are no complaints about the service; the only complaints relate to the manner in which the cars are kept whilst people are at work. They are subjected to vandalism, theft and robbery when they are supposed to be under surveillance.

The system simply is not working. My constituents, in particular Mrs Jennifer Clements and Mrs Tracy Hicks, are bitterly disappointed. I ask the Minister to look into this matter. Commuters need an assurance that their cars will be safe. When they return from work they want to be able to travel home in their cars and not find vandalised wrecks which will take time and money to rectify. Quite simply, the present system, which is not working well, has to be upgraded to ensure the safety of these vehicles.

**Mr AQUILINA** (Riverstone—Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs) [5.27 p.m.]: For many reasons I am happy to convey the sentiments and comments of the honourable member for Baulkham Hills to the Minister for Transport. However, I am acutely aware that much effort has been made to improve the security of vehicles in that car park. Seven Hills car park, a great initiative and a multistorey car park, provides commuters catching

the train at Seven Hills with a location for their vehicles. But as the honourable member for Baulkham Hills said, that car park has been the subject of a lot of investigations, and there have been many problems associated with vandalism and theft. The latest information I have from the Minister is that there have been some delays concerning the supervision of video surveillance equipment because of the demarcation dispute between transport workers and the police.

When that dispute was finally resolved other issues arose concerning the relocation of Seven Hills police from the old premises at Seven Hills Public School to the new premises on the southern side of Seven Hills railway station. As I understand it, that surveillance is now being undertaken by Blacktown police. So responsibility for that surveillance has been shifted to another police station and there is a guarantee of adequate surveillance; although additional improvements must be made, such as changes to the lighting to enable better detection by surveillance cameras. At the moment Seven Hills car park is lit by amber lights which restrict vision through surveillance cameras. It is proposed to change those lights to bright white lights which will enable detection and videotaping under surveillance.

*[Debate interrupted.]*

## QUESTIONS WITHOUT NOTICE

### Supplementary Answer

#### CASINO CONTROL AUTHORITY STAFF TRAVEL

**Mr FACE**, by leave: Earlier today the Deputy Leader of the National Party asked me a question concerning staff travel expenses. In relation to the Casino Control Act 1992 I, as Minister, cannot interfere with the authority's day-to-day operations. As I said earlier today, this provision was enacted by the previous Government.

**Mr KERR**: There is a procedural problem. I ask the Minister to move for suspension of standing orders.

**Mr FACE**: I seek leave to suspend standing orders to allow me to give a supplementary answer.

**Mr KERR**: I need advice from the manager of Opposition business.

**Mr DEPUTY-SPEAKER**: Order! The matter is deferred.



**PRIVATE MEMBERS' STATEMENTS**

[Debate resumed.]

**RICHMOND POLICE STATION**

**Mr GIBSON** (Londonderry) [5.30 p.m.]: I wish to speak about the establishment of a police station at Richmond, a much needed facility in my electorate, and the Hawkesbury area. State governments have talked about building a new police station there for some 30 years, and two years ago the present Government made a promise to build it. But just as the One Hundred Year War between England and France continued for 116 years, the promises to build this police station have continued for 32 years. It is about 700 days since this Government made a promise to build the station. In June 1994 the coalition Government decided to buy land to build a new police station and spent \$925,000 on a block of land at Windsor. That block of land remains empty.

In 1996, after a lot of pushing from me and many others, this Government, in consultation with the police, decided the best place to build a police station was at Richmond. In September 1996 a block of land at East Market Street, Richmond, was purchased for the grand price of \$690,000. At the same time, \$250,000 was spent to refurbish the Windsor Police Station, which was, and still is, in an appalling condition. Since 1994 this Government and the coalition Government have spent a total of \$1.6 million for a new police station in the Hawkesbury—and we have two blocks of land and no police station. Money to build the police station was not allocated in last year's budget or in the budget two years ago. I hope that it will finally be allocated in this year's budget. After 32 years, the people of the Hawkesbury should get a police station. As I said, \$1.6 million has been spent and they are still waiting. An editorial in the *Hawkesbury Gazette* about the Government's announcement to build a police station stated:

While Mr Gibson's promise has been fulfilled a few months past its original 12 months of a Carr Labor Government deadline that is due more to lengthy land negotiations than any tardiness on his part. Mr Gibson consistently told the community that he would keep his election pledge and he has borne plenty of heat from the community, and in the pages of this newspaper, when delays brought out the skeptic in us all.

More than a political coup for Mr Gibson, the new police station is a win for the entire Hawkesbury.

That was the situation two years ago, yet we are still waiting. We have the land but no police station. It is like buying a new suit but not buying a pair of

shoes to go with it. The editorial concluded:

Maybe the day will come when promises kept will be the rule rather than the exception.

When the Treasurer brings down the budget next Tuesday, I hope that the Richmond police station is mentioned in it. A duration of 32 years is too long to have to wait for a new police station. The amenity is needed; the people expect it, and the Government made a promise to deliver. We have not delivered yet. I hope that next Tuesday I will be able to say to the people of the Hawkesbury and the people in my electorate of Londonderry that finally the money is available to build a police station.

**CUDGEN NATURE RESERVE**

**Mr BECK** (Murwillumbah) [5.35 p.m.]: I make one last plea to the Government to consider the draft plan of management for the Cudgen Nature Reserve. The reserve was gazetted as a national park two years ago but the plan of management has yet to be passed by the Government and the Minister for the Environment. During that time more than 100 submissions have been forwarded to the Minister and more than 2,000 people have signed petitions to have a plan of management that would suit the area. One petition stated:

The Draft Plan of Management for the Cudgen Nature Reserve is unacceptable and . . . restricts the longstanding public use of Cudgen Lake and North Cabarita Beach for recreational purposes.

The petition stated that the proposed restrictions would affect the area's tourist industry and the economic future of Cabarita Beach and Bogangar and, in particular, would curtail many users of the lake. Following on from that petition with more than 2,000 signatures that was presented to the Parliament, hundreds of petitions were forwarded direct to the Minister's office. All of the petitions are important, some of which were headed:

**KEEP OUR BEACHES OPEN FOR RECREATIONAL USE FOR THE PEOPLE.** We the undersigned wish to register our support for the submission to National Parks and Wildlife by the Greenback Tailor Fishing competition organizers relating to the continued use by Licensed Beach Vehicles for the beaches from Cabarita Beach to the South Wall of Cudgen Creek.

The lake is now completely blocked. A document prepared by the people of Cabarita and Bogangar shows that the lake was used in the 1980s for water skiing and sailing boats and that North Beach was open to the public. This area is now locked up and the lake is overgrown with reed. The outlet of the lake to Cudgen Creek is completely blocked and

does not allow tidal flow into the lake. Without tidal flushing the reed is growing, the fish are dying and acid water is running off into the lake. Further, if a flood, such as the floods in 1974, occurs, more than 1,000 homes that have been built in the surrounding areas could be damaged.

The jetty at the Wollumbin scouts camp, which adjoins the lake, has been removed, and it is stated in the draft plan of management that the campers are not allowed to collect firewood. I am told that it is now up to the Minister to make a final decision on the plan of management. I hope that she will listen to all the people of the area, not a select few, and approve a plan that allows the lake to be used in the manner it had been used for many years. I have newspaper clippings that date over a period of months. I think that the Minister has got the message. In March the Leader of the National Party, the Hon. Ian Armstrong, visited the area. He has made a firm promise that if the plan of management is not fulfilled in the manner in which the people want it to be fulfilled he will repeal it. In a letter of 18 May he stated:

I confirm my comments made at the time of my last visit that the current management plan will be repealed and that community consultation will be at the forefront of the development of the new plan of management for the area.

It is about time the Government started to listen, especially the Minister for the Environment, the Hon. Pam Allan. I look forward to the development of a positive plan of management that will suit everyone. [*Time expired.*]

**Mr AQUILINA** (Riverstone—Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs) [5.40 p.m.]: As Minister for Education and Training I do not have specific information to provide to the honourable member for Murwillumbah in response to the issues he raised. He referred to the Government listening and the Minister getting the message. I repeatedly say to Opposition members that if they are fair dinkum about the Government listening and appropriate Ministers getting the message when private members' statements are made they should stop politicking and get on with the job. They should at least advise the Minister that they will raise the issues so that the Minister can be in the Chamber to hear what they say and, in the words of the honourable member for Murwillumbah, get the message and make an appropriate response in the Chamber.

**Mr Beck:** On a point of order. The Minister is talking about something that he does not know about. There has been correspondence back and

forth to the Minister. She has ignored requests to address—

**Mr DEPUTY-SPEAKER:** Order! That is not a point of order.

**Mr AQUILINA:** Irrespective of the correspondence backwards and forwards, the honourable member for Murwillumbah said that the Government should get the message. Several times in his speech he said that the Minister should get the message. I say again to him and to all members opposite that if they want a Minister to listen and if they want the Government to get the message, they should have the courtesy to advise the Minister that they intend to raise matters in the House so that the Minister is in a position to reply in the Chamber at the time the issue is raised.

### IRISH FAMINE COMMEMORATION

**Mr NAGLE** (Auburn) [5.42 p.m.]: In 1828 one Daniel Cosgrove was a very naughty boy. For that he was sent from Galway, Ireland, to New South Wales for the term of his natural life, arriving at the convict barracks known as Hyde Park Barracks, where about 600 men slept in hammocks in 12 rooms surrounded by a bakery, a kitchen, mess rooms, pantries, storerooms, cells and so on. In 1838 one Michael Nagle, my great-great-great-grandfather, who was not such a naughty boy, was given £18 and told to leave Ireland never to return. He arrived on the *Metclaff* in 1838. Two grandfathers, one naughty, one not so naughty, came out to this land. From 1848 to 1852 nearly 4,000 orphan Irish females came to Sydney for the purposes of being scheduled around the State. I speak tonight on the great Irish famine of 1845 to 1848 and the proposal to commemorate it.

The Irish-Australian community is currently commemorating this event, which resulted in a large Irish population being brought to Australia. Unfortunately, half the population of Ireland died or emigrated. To honour the memory of those who died and to acknowledge the contribution of the survivors in the development of Australia it is proposed to build a monument at Hyde Park Barracks or in the immediate vicinity. Patrons of the appeal for the purpose include His Excellency Richard O'Brien, Ambassador of Ireland, His Lordship, Bishop David Cremin, our own Johnno Johnson, and Tom Keneally. To raise funds a function at Parliament House on Friday, 7 August will be hosted by me and my colleague from the other side the honourable member for Northcott. The commemoration is not only for those who died in the famine but also for the many Irish people who made a great contribution

to Australia. As Tom Power has written:

Our aim is to see a fitting monument erected adjacent to Hyde Park Barracks where so many Irish convicts and immigrants spent their early days in Australia. The Hyde Park Barracks is said to be the most significant Irish site in Australia and it was to this site that some tens of thousands of single, Irish orphan girls came in 1848 and subsequent years.

It seems that the negotiations to erect the monument will be successful. Unfortunately, the design of the monument cannot be recorded in *Hansard* but I hold up a depiction of the design so that members in the Chamber can see it. Currently, 28.9 per cent of the population of New South Wales have Irish heritage, and it would be good for the Parliament to acknowledge this. The Minister for Education and Training did not come from Ireland—all of us cannot be that lucky—but from Malta, another great place. As my father, God bless his soul, said, "There are only two types of people on this earth, son: those who are Irish and those who wish they were." In 1841 the population of Ireland was 8,600,000; by 1851 the population was 6,600,000—two million missing as a consequence of the great famine. The event that occurred 150 years ago should be commemorated. The community supports such a commemoration. Members of this House have an opportunity to come to the function and to support the Irish community in the fine work it is doing. Politicians are not given credit for many of the good things they do. This one we should support. The terrible disaster for Ireland was a godsend for Australia because so many good people came. I commend the support of the great famine commemoration monument to the House.

**Mr AQUILINA** (Riverstone—Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs) [5.46 p.m.]: Although I am not Irish I am delighted to support my good friend the honourable member for Auburn in his very eloquent presentation to the House in support of the Irish famine monument, and particularly the function to be hosted by him and others at Parliament House on 7 August. The honourable member for Auburn spoke in glowing terms about his heritage. Knowing him as well as I do, I wondered what on earth had happened along the line! Be that as it may, he is a good friend and a person who is keen to support worthy causes, this being one of them.

As I indicated, I am not of Irish heritage but my wife is. Soon after our marriage 17 years ago I was very honoured and pleased to attend with her a major family reunion in Devenish in the north of Victoria to celebrate the one-hundredth anniversary of the migration of her family to this country.

Australia has been very fortunate indeed in benefiting from the migration of many peoples from many parts of the world. Often they emigrated because of a major tragedy in their nation. Everyone knows the great deprivation caused to the Irish people by the great famine of 1845 to 1848. Countries such as Australia, Canada and the United States in many ways were the beneficiaries: the tens of thousands of people of Irish heritage who migrated to those countries were a cornerstone in the building of those nations. I congratulate the Irish. I congratulate my friend the honourable member for Auburn and I wish him well with his function on 7 August.

### INTERNET PORNOGRAPHY

**Mr GLACHAN** (Albury) [5.48 p.m.]: I am not particularly familiar with the Internet but a constituent of mine who understands the Internet has assured me that the information I am about to relate, which is of concern to me and will be of concern to many members of this House and to parents throughout Australia, is reasonably accurate. I refer to a site called the Telstra Big Pond, which can be accessed for about \$1.75 an hour. Under the Mail News site is a section called Aus.sex, which apparently can be accessed by anyone and which includes several hundred messages. Parents should control access to these sites by young people, in particular teenage boys, who are familiar with computers and the Internet and can easily access the site, especially as many have more knowledge of computers than their parents.

The New Australian Sex Site advertises "Aussie Magasex for the most comprehensive list of Australian only sex sites on the web with free live video". It suggests that people under 18 years should click "Leave" while those over 18 click "Go Ahead". A credit card number may be requested as proof of age but young people can easily obtain the number of their parents' credit card. One section depicts a video camera set up in a studio and operators of the Internet can tell the girls to do anything they wish. The cost for this service is \$5 to \$10 per minute, so parents should check their telephone accounts. Many sites are advertised in Telstra Big Pond and in the public interest I should outline them. The advertisements state: "What a birthday! I had another ride on the love shaft", "Wet panties for sale", and "Watch us do it all for free". Membership to the site can be gained by ringing a 1800 number. Children can learn how to access the site and then tell their friends, and my constituent believes that many children will avail themselves of this service. Other advertisements state: "Watch me and my girlfriend gang rape a good-for-nothing . . .",

"German nazis forcing young indecent girls to have . . .", "Free rape photo archives" and "Hidden cameras to watch women in toilets".

This disgraceful stuff is available on the Internet to young children. We are all concerned about the morals of society and about young children carrying knives. I know the Minister for Education and Training is concerned about what is happening in schools, and I am worried that young children are able to gain access to this type of information. Shortly before I entered the Chamber I had a phone call from my constituent, who told me that he could work out the password in a couple of minutes and if he could do that, clever young schoolchildren could also do so. Matters relating to Telstra fall within the jurisdiction of the Federal Government. However, morality is a concern for everyone and many would be concerned that young children can readily access this type of information. I ask parents to take heed of this warning because as time goes on access to this information will lead to enormous problems in our society.

#### NATIONAL SORRY DAY

**Mr GAUDRY** (Newcastle) [5.53 p.m.]: Tonight at seven o'clock at the Christchurch Cathedral the citizens of Newcastle will have an opportunity to acknowledge National Sorry Day, as have others throughout Australia. Sir Ronald Wilson, who produced the stolen generation report, will participate in the ceremony. That report has triggered across Australia a deep realisation that the first step towards reconciliation is joining together to say sorry to the Aboriginal people. That is what happened in this House today and in the solemn ceremony at Government House.

On Sunday I had the opportunity of attending a ceremony that took place at the Sydney Opera House in which a large crowd on a cold and windy evening joined in solidarity to give a commitment to reconciliation and to sign sorry books. This was in recognition of the fact that the first step towards reconciliation is to apologise for the impact of State and Federal policies and legislation that led to the dispossession of the lands of our indigenous people, the removal of children from their homes and the destruction of their culture and family life. Some of the most moving statements were not formal speeches but songs. I refer particularly to *They Took the Children Away* by Archie Roach; *Run Daisy Run* by Leah Purcell; and *From Little Things Big Things Grow* by Kevin Carmody, the story of the great fight of the Gurindji people for their land rights and their struggle with the Vestys at Wattie Creek.

As I walked away from that meeting I was joined by an indigenous person, whom I shall call Cliff. He was upset that as a member of the stolen generation he did not have an opportunity to express his feelings. He was not particularly sorry that he was taken away from a life that might have involved the alcoholism or degradation that is portrayed by many indigenous people along the Murray River, but he had a deep sense of grief that seven of the eight children in his family were removed from their parents in 1967. He said that his mother died at a young age from a broken heart because her children were taken away. I asked if he kept in contact with his mob along the Murray and he said he did so in his heart.

He did not have a family relationship with his brothers and sisters. His contact was merely a handshake, not the strong bond that one would normally expect from someone who had grown up with his family. He shook my hand and gave me a hug and that, more than anything else, demonstrated his feeling of grief at the loss of his family. It highlighted the destruction over a period of time since settlement that government policies have had on indigenous people. I and everyone else would feel deep sorrow at the impact those policies have had on that individual. On this day it is appropriate to express sorrow for the government policies that have prevented indigenous people moving forward in our society. [*Time expired.*]

#### CARRAMAR NURSING HOME, LEETON

**Mr CRUICKSHANK** (Murrumbidgee) [5.58 p.m.]: The matter I raise concerns cutbacks in bed numbers at the Carramar Nursing Home in Leeton. I informed the office of the Minister for Health that I would be speaking on this matter. On 24 October 1997 the people of Leeton got a tremendous shock when they were told:

No aged residents will in future be admitted to Carramar and the beds of elderly patients who die or leave will remain vacant. The exception will be if a "crisis" occurs, such as a sudden illness of a home carer looking after an elderly relative.

One can imagine the shock that people felt at that time. Also at that time a cut was made, quite unannounced, to aged day care services. Whereas this day care had been available five days per week in Leeton and five days per week in Narrandera, that level of care was cut by half and those two centres now have only five days of care between them—I understand alternating between two and three days in Leeton and Narrandera. This reduction in the level of care had already taken place when we found out about it. Worse still, we then discovered that

there had been a major review of aged care services in the Greater Murray Area Health Service on 17 October 1997. That had been instituted, but we knew nothing about that. That review has been used ever since to obfuscate the issues and not give us reasons. It has been said that the closure of day care beds was a temporary measure until the results of the review became public. Nothing has happened since then. The people of the area are still wondering whether or not they will get their aged day care beds back.

We are very concerned about this. On numerous occasions I have spoken to staff of the Leeton Hospital. They say that the beds have not been cut out, that they are still in place and are available. I talked to one lady who had been visiting Carramar for 4½ years to look after her aged mother, whom she had to feed daily. Without that level of family care, her mother would have suffered quite seriously. This lady told me that she was quite sure that between five and seven beds constantly were vacant at Carramar despite the fact that the people of Leeton do not want to go anywhere else. There is no public transport in the area, so that persons with aged parents or relatives who cannot look after themselves and must be admitted to these homes must look after these aged persons.

In Narrandera, which is 30 to 40 kilometres away, is a nursing home that is federally funded. Many people in Leeton believe that persons needing aged care are being shunted from Leeton to Narrandera. This is distressing for the aged persons themselves, because they become disoriented, but it also presents difficulties for carers and people who look after the aged persons from that point onwards. The people of Leeton want the Minister to protest at the cutbacks in aged care beds in the Carramar Nursing Home and at this shifting of beds to Narrandera, if that is what is occurring. People do not know what to believe because they are getting conflicting messages. We are being constantly told by the Greater Murray Area Health Service, "Don't worry, everything is all right. We are still investigating." People are becoming tired of investigation.

Five different families have telephoned my electorate office and complained about what has happened when they have tried to get their aged parents into the Carramar Nursing Home. Three of those persons died before they could be admitted. Another two made complaints that they were having the greatest of difficulties with the Leeton Hospital people. We do not know who is telling the truth and who is not. There is a great deal of dissension in the community because, despite letters from the Greater

Murray Area Health Service advising that no services will be cut, and everything depends on the review that is taking place, nothing has resulted from that review, and we are still not getting satisfactory responses to our inquiries. Carramar Nursing Home was built by the people of Leeton. They raised \$500,000 in an exceedingly short time to build the nursing home. To have nursing home services cut because of lack of action by the Greater Murray Area Health Service is debilitating for the people of Leeton.

### WHEEL CLAMPING

**Mr TRIPODI** (Fairfield) [6.03 p.m.]: It has previously been brought to the attention of this House that unscrupulous security operators who are engaged to control parking on private property are abusing the system. That abuse is often occurring at the expense of the health and wellbeing of unsuspecting vehicle owners. In the past two days two such incidents have occurred in my electorate. The first jeopardised the life of an extremely ill woman. The second placed the safety of a five-year-old child at risk. In the first instance my constituent informs me that her grandmother, who is on her deathbed in a nursing home, sought sentimental items from her unit in Fairfield so that she could personally give them to family members prior to her death.

To satisfy a dying woman's plea, my constituent offered to go to her unit in Fairfield and collect the items. Her mother, who is also desperately ill with heart disease, cancer and a recently-discovered brain tumour, accompanied her. I must point out that my constituent's grandmother owns her unit and that ownership entitles her to one car parking space in the complex. However, as she has not recently occupied the unit, she has given permission for another couple in the complex to use her car parking space if it is available. On the day of their visit, the car parking space was being utilised by the other couple, so my constituent parked behind them, knowing she would only be gone a matter of minutes. She assisted her ailing mother up the stairs and collected the five items.

A few minutes later my constituent returned to the vehicle on her own with the goods, only to be advised by a security operator from Community and Industrial Protective Services that her car wheels had been clamped and that \$285 would ensure its release. If the payment was not made on the spot the operator threatened that the vehicle would be towed away. As would be appreciated, my constituent did not have this amount of money with her. Her first concern, however, was her mother. My constituent

assisted her mother down the stairs and asked the security operator if her mother could sit in the vehicle. This request was refused, and my constituent was forced to sit her mother in the dirt until she could locate a milk crate.

Despite her mother's obvious illness and distress, my constituent could not reason with the security operator and demanded to speak to his superior. On the telephone she pleaded with the owner of the company to allow her vehicle to be released. This plea, however, fell on deaf ears. Not knowing where else to turn, my constituent ran to the closest unit and made a call to the police. Whilst the police were sympathetic to her situation, they believed it was a civil matter. The security operators advised that they were running out of patience and told my constituent that they were going to tow the car away unless she produced the money. Knowing that she did not have the money and that she could not leave her mother whilst she went to withdraw the money, my constituent realised that it was essential for her to retrieve her mother's medication from the vehicle. In the confusion, however, she had misplaced the keys. My constituent wanted to call the NRMA to open the boot prior to the car being towed. The operator just laughed at her.

My constituent informed the security operator that if anything happened to her mother as a result of her not being able to take her medication, she would hold the company personally responsible. She then approached the operator and asked him if he would walk over her mother if she fell off the crate. He allegedly responded that he would kick her first, take her money and then walk over her. Having said this, he turned away laughing. Not wanting to further jeopardise the health of her mother, my constituent rang her family at Blaxland who travelled to Fairfield and paid for the vehicle's release.

The second case also highlights the trauma experienced by a constituent at the hands of Community and Industrial Protection Services. On this occasion my constituent returned after only three minutes to find that the wheels of her car had been clamped. She was also advised by the security officer that he would release the vehicle when she paid \$285. My constituent was subjected to harassment by the security officer, who belittled her by laughing at her and making snide comments. However, knowing that her five-year-old son would be stranded at school if her car was not released, she told the security officer that she would withdraw the money from an automatic teller machine. As my constituent returned with the money, she saw her vehicle pass her on a tow truck. Despite her screams

for the driver to stop as she had the money, she was ignored. The security operator, once again finding his job quite amusing, laughed.

My constituent then caught a taxi to the Smithfield address where her car was impounded. There was no-one at the site upon her arrival, just a sign displaying a telephone number. She called the number and explained the urgency of the matter. Some time later, as no-one had responded to the call, she called again. When the operator finally arrived to release her vehicle, my constituent handed over the \$285. However, she was told with the further towing charges, she was now required to pay \$365. My constituent, already late, had no other option and was forced to pay.

I welcome the bill introduced by the Minister for Local Government to outlaw these atrocities. This company, Community and Industrial Protection Services, consists of nothing less than thieves with the power of the law on their side, a law which they have no hesitation in abusing. Their orchestra may well be playing and the party raging with all those cash dollars pouring in, but their days are numbered. The *Titanic* is sinking and the party will then stop. But the victims of these crooks and thieves are piling up. This company and its gestapo are playing up in their last days. They will then be buried with the corrupt business that they run—and good riddance!

#### LOCAL GOVERNMENT LAW AND ORDER MEETINGS

**Mr BLACKMORE** (Maitland) [6.08 p.m.]: As a result of approaches made by honourable members representing the electorates of Dubbo, Wagga Wagga and Tamworth to the 177 councils throughout New South Wales, approximately 80 local government bodies agreed to hold law and order meetings on Monday, 11 May. These meetings were chaired by participating councils and therefore were accurately assessed as being non-political. The meetings gave the communities the opportunity to express their concerns about, or perhaps support for, petitions to the Chief Justice of the Supreme Court, the Premier of New South Wales, the Leader of the Opposition, the Chief Judge of the District Court and the Chief Magistrate in regard to law and order issues.

Although the councils of Dungog, Cessnock, Lake Macquarie and Newcastle held meetings, I was extremely disappointed that Maitland City Council did not see fit to participate in order to give the community an opportunity to express its concerns. Maitland, like other areas, has its share of

community crime. However, when I learned that that council held talks behind closed doors with the Premier's Department and other agencies regarding the level of crime in one suburb, I was concerned that the whole of the Maitland community had been denied the opportunity to have input into the issue of law and order. I attended a meeting in Dungog, and last week I attended a rural watch meeting at Millers Forest. Both meetings were well attended. People at those meetings were unanimous in their concerns that we, as legislators, the courts and the judiciary take note of the community's concerns and that if we do not take action we should publicly state the reasons for such refusal and continued leniency.

Members of the community have stated that they are no longer prepared to tolerate the high levels of crime in the State; that they are particularly concerned that many of the sentences imposed on violent and repeat offenders do not appear to fit the crimes with which they are charged; and that too often bail is granted to persons charged with very serious offences. They are disturbed by the recent decision of the Court of Criminal Appeal that victim impact statements are not to be a factor in sentencing. They are of the opinion that courts seem to favour repeat offenders. They are no longer prepared to live in fear for themselves and their families, nor are they prepared to live like prisoners in their own homes and businesses or to carry the enormous cost of crime.

Mr Deputy-Speaker, as you would be aware, a number of crimes have occurred in the Woodberry area, a suburb in your electorate, about which the police spoke quite openly to the Millers Forest meeting. For example, 128 charges have been levelled against two offenders, who are brothers, in the Children's Court, yet they have still managed to be granted bail. The community is saying to us, as legislators, and to the judicial system, that they are not prepared to accept this. I feel that sometimes we bring these changes upon ourselves. When crimes are committed against us and members of the community, and the solicitor who represents us says he or she is certain that the offender will receive weekend detention, we think the job is being done well.

As a community we are lessening the full impact of crime. Crime should be dealt with by the courts. Members of this House may say that legislation provides strong penalties for crime, but members of the community said at the meetings that they are not prepared to have a lessening of the penalties, they want maximum penalties invoked in all cases. Members of the community supported the

Police Association in regard to what they regard as a lessening of police powers. The community and the police believe that adequate power must be given to police to carry out their duties and to provide protection to the community. I ask the House to take note of the community meetings.

**Private members' statements noted.**

*[Mr Deputy-Speaker left the chair at 6.13 p.m. The House resumed at 7.30 p.m.]*

**FEDERAL HIGHER EDUCATION FUNDING**

**Matter of Public Importance**

**Debate resumed from an earlier hour.**

**Mr ANDERSON** (St Marys) [7.30 p.m.]: I congratulate my colleague the honourable member for Badgerys Creek on bringing this matter of public importance before the House. I listened to her presentation and to that of the honourable member for Ku-ring-gai. I do not agree with a number of his comments. He referred to education in western Sydney and claimed that the Nirimba project was the idea of the former coalition Government. However, it was never the coalition's idea. I acknowledge the part played by the Hon. Virginia Chadwick, as Minister for Education, Training and Youth Affairs in the previous Government, but she took up an idea that was developed at Blacktown City Council when I was mayor.

The proposal came from a meeting with the then Minister for Defence, the Hon. Senator Robert Ray. He gave us \$70,000 to investigate the possible uses of the Nirimba land after the navy withdrew from the site. A committee was established from the local community, and the current Minister for Education and Training, the Hon. John Aquilina, was deputy chairman of that committee and chaired a number of meetings. When we decided to pursue a facility of educational excellence in western Sydney, the then Minister for Education, Training and Youth Affairs supported every initiative to achieve that goal. Consequently, today we have the Nirimba educational precinct. The Hon. Virginia Chadwick certainly played a part in helping to achieve that goal, but the idea was always that of the people of western Sydney, the people of Blacktown, supported and encouraged by the current Minister for Education and Training.

Universities exist to serve the community. Their purpose is to preserve, transmit and expand the domain of human knowledge through teaching, learning and research. Universities create and

advance knowledge for its own sake, but also for the betterment of communities. Universities also play a role in shaping a democratic, civilised and inclusive society. The Minister strongly emphasised that the New South Wales Government opposes any return to an elitist university system, characterised by narrow access and based on wealth and privilege. Such an approach is not consistent with the democratic role of universities, nor their commitment to equity and social justice. Equity is a core issue in education for New South Wales. The mission of our universities can be achieved only through a strong, publicly funded higher education sector in which equity and quality go hand in hand. It is not just in the interests of individuals, but of our society as a whole that we broaden the pool of talent from which we can all draw.

Adequate public funding is a prerequisite for equitable access to and full participation in higher education by members of our community, not only the wealthy elite. As we have heard today, Commonwealth Government funding for our universities is far from adequate. The massive funding cuts to universities, confirmed in the recent Commonwealth budget, and the implications of the Commonwealth's West review of higher education put at risk the proper role of our universities and their capacity to provide equitable access and outcomes. Recent changes by the Commonwealth mean that students who do not perform well but who can afford to pay a tuition fee of \$10,000 each year are now able to enter university, while students who perform better but cannot afford to pay are excluded. This totally unfair situation is a result of the Commonwealth tinkering with the future of higher education in this country. To try to compensate for its funding cuts the Commonwealth has cynically invited the universities to offer full fee-paying places to Australian students. [*Time expired.*]

**Mrs BEAMER** (Badgerys Creek) [7.35 p.m], in reply: The Opposition spokesperson on education, the honourable member for Ku-ring-gai, maintained that the University of Western Sydney was operating effectively despite Federal Government cuts. I agree that the University of Western Sydney is a young, growing, vigorous learning institution that has been working effectively to increase participation rates of students from a region which, by and large, has been unrepresented in university places. We talked about 30 places per 1,000 for western Sydney in 1993; but now we talk about 55 places per 1,000. From 1990 to 1997 total enrolments have doubled, increasing from 12,682 to more than 27,000.

The University of Western Sydney is dedicated to the growth of placements in western Sydney, not a levelling off and not a plateau. Over the same period enrolments have more than doubled, increasing from 5,668 to more than 11,000. This is not a no-growth university; it is one in which we want to see growth. These figures clearly indicate that the University of Western Sydney is trying to meet the increased demand for higher education places for the region. The honourable member for Keira, a member of the Council of the University of Wollongong, told me that the University of Wollongong, like UWS, is finding it more and more difficult to meet the demands placed upon it as a result of the Federal Government's changes.

The average university student now pays 42 per cent of the average costs compared to just 23 per cent previously. The Commonwealth Government's university funding report for the next three years shows that previous growth levels will level off, that is, there will be no growth in funding. Universities like the University of Western Sydney have had to overenrol to avoid the savage penalties for each student place that have been placed on it to meet student targets. It has tried to maintain funding levels by securing a small amount of Commonwealth Government funding and allowing for an overenrolment of students, that is, funding of about 25 per cent of the cost of a student place, the discounted higher education contribution scheme rate. That is totally unsatisfactory. The UWS is attempting to maintain its numbers with significantly less government funding. I note the concern of the honourable member for Coffs Harbour. He is so concerned that he has joined me on this side of the House to protest.

In addition, and this is a major point, UWS has had to sustain significant increases in academic salaries—about 6 per cent—without any help from the Federal Government. That means that it has had to meet those demands within its budget. This is just another cut. Overall, UWS has had to overenrol to meet its demands, but it is getting less funding. I say within the confines of this Chamber—and these facts are published—that UWS is doing a mighty fine job to maintain this excellent institution of learning, but it is totally unsatisfactory in such a dynamic area as western Sydney that we are now looking at no-growth higher education places. I implore the House to tell the Federal Government to revert from its demolition of education funding for higher sector places. The UWS and all universities in New South Wales should have access and equity in the education area.

**Discussion concluded.**



**THOROUGHBRED RACING BOARD  
AMENDMENT BILL****Bill introduced and read a first time.****Second Reading**

**Mr FACE** (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [7.43 p.m.]: I move:

That this bill be now read a second time.

In 1996 the Government introduced legislation to establish the New South Wales Thoroughbred Racing Board as a representative body, to take over responsibility from the Australian Jockey Club for the control and regulation of the thoroughbred racing industry in this State. The board was appointed in October 1996 and assumed its responsibilities as the controlling authority for thoroughbred racing in New South Wales on 1 July 1997. It would be fair to say that the Thoroughbred Racing Board has been an outstanding success and has been well received by the racing industry. The legislative package before the House is the result of an approach to the Government by the Thoroughbred Racing Board seeking clarification of its powers and protections in hearing certain matters in the course of its functions as the controlling body of thoroughbred racing.

In this regard, the board had concerns as to whether it had the power to hear evidence at inquiries in public and whether matters raised at inquiries, together with findings subsequently published, would be privileged from defamation action. These important questions arose following an application to the board by former bookmaker Mr Robert Waterhouse to have his lifetime warning off from racecourses reviewed. Honourable members would no doubt recall the infamous Fine Cotton ring-in scandal back in August 1984, when the better performing horse, Bold Personality, was substituted for Fine Cotton in a race at the Eagle Farm Racecourse in Brisbane. Although this incident occurred in Queensland, there was substantial betting on the race in this State. Consequently, the then controlling authority in New South Wales, the Australian Jockey Club, initiated its own inquiry into the matter and subsequently found a number of persons to have had prior knowledge of the ring-in.

One of Sydney's leading bookmakers at the time, Robert Waterhouse, was one of those persons warned off racecourses for life by the Australian Jockey Club. Honourable members may be interested to know that it is said that the power of a

controlling body of racing to warn a person off a racecourse has its origins in 1666 during the reign of Charles II. Apparently, Charles II had his own racing stables at Newmarket and controlled thoroughbred racing himself. If any person was found to be cheating or guilty of fraud in racing or betting, he was excluded from the court and warned off Newmarket heath. Gradually this principle of warning off was extended to other places where racing was conducted and by the early part of this century the term "warned off Newmarket heath" was said to mean "undesirable on the turf and unfit to associate with the gentlemen of the turf".

A warning off, which in effect represents a worldwide ban from racecourses for an indefinite period, is not a punishment as such, but rather a necessary measure taken to protect the racing industry and the public interest in racing from fraudulent and corrupt practices. The Waterhouse case is not the first time that a controlling body of racing has conducted an inquiry with the view to reviewing a warning-off order. Once the racing appeal process has been exhausted no further right of appeal exists, and it has traditionally been the case that the controlling bodies of racing have the power to inquire into and review a warning off. The Crown Solicitor has advised that he is of the opinion that it would not be unreasonable to accede to the Thoroughbred Racing Board's request to ensure that board members, witnesses giving evidence to the board, and lawyers appearing before the board in a public inquiry have appropriate protections from defamation action.

The legislation before the House will place beyond doubt the Thoroughbred Racing Board's discretion to conduct inquiries in public and to have protection from defamation action in respect of such proceedings. The proposed legislation will also make a minor variation to the present appeal procedures for the thoroughbred racing industry. At present thoroughbred racing industry appeals are heard in the first instance by the appeal panel constituted under the Thoroughbred Racing Board Act. A further right of appeal then exists to the independent Racing Appeals Tribunal. As the Thoroughbred Racing Board is responsible for appointing the appeal panel, it has been suggested that there could be a perceived conflict of interest in the appeal panel hearing appeals against decisions of the board itself, as opposed to appeals against decisions taken by the stewards. It is recognised that it would only be on rare occasions that the board itself, rather than the stewards, would impose a penalty. While I believe that the integrity of the appeal panel is beyond reproach, I have taken on board the Thoroughbred Racing Board's argument of public and industry perception.

The proposed legislation will therefore provide for a right of appeal against decisions taken by the Thoroughbred Racing Board to the Racing Appeals Tribunal direct. As the tribunal will be the first and only avenue of appeal in such cases, the prescribed minimum penalties which will be subject to this new appeal process will be lower than those applying to other appeals which are firstly heard by the appeal panel. An appropriate amendment will be made to the regulation to achieve this purpose. The bill has been developed in close consultation with the Thoroughbred Racing Board and it will only assist the board in its controlling and regulatory functions. This of course will be of significant benefit to the racing industry, which is entering an exciting new era with the impending privatisation of the TAB. I said when the bill was originally introduced, and I have said on subsequent occasions, that the Thoroughbred Racing Board legislation would from time to time be amended to fit the needs of the racing industry long before the conclusion of the original review period. I commend the bill to the House.

**Debate adjourned on motion by Mr Cruickshank.**

## **LIQUOR AND REGISTERED CLUBS LEGISLATION AMENDMENT BILL**

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

### **Second Reading**

**Mr FACE** (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [7.49 p.m.]: I move:

That this bill be now read a second time.

The aims of the bill are: to vary the operation of Governor's licences with respect to the responsible serving and consumption of liquor; to allow nightclubs to stage alcohol-free entertainment for young people under 18 years of age; and to make consequential and other minor amendments of an administrative character. I will address those proposals in detail. Governor's licences are a category of liquor licence issued under the Liquor Act. This unique licence type has existed for more than 80 years, and was first introduced when the Liquor Act 1912 empowered the Governor to issue licences for the sale of liquor at railway refreshment rooms, subject to such regulations as the Governor might make.

The 1982 Liquor Act provided that, in addition to railway refreshment rooms, a Governor's licence could be issued to authorise the sale of liquor on

premises vested in the Crown or a public authority constituted by an Act, in a canteen at a construction camp or at works of a public nature. As a result, the 1982 Act provided a new form of liquor licence more suited to the emerging complexity of developments on Crown land, for example the Sydney Opera House, the Sydney Entertainment Centre, the Sydney Cricket Ground, the Sydney Football Stadium, and numerous other Government lands and premises. In recent years, Governor's licences have also been issued to technical and further education colleges to facilitate hospitality industry training, and to racecourse facilities located on Crown land.

Only a small number of Governor's licences are issued each year. At 30 June 1997, 63 Governor's licences had been issued in New South Wales—one of the smallest liquor licence categories overall. The nature of functions held at Governor's licence venues is diverse—from small private functions through to major sporting events, concerts and other large-scale entertainment events that attract thousands of people. Therefore, it is essential that venues operating under a Governor's licence are subject to the same types of regulatory controls that apply to all other liquor licences, particularly the harm minimisation and responsible serving requirements.

At my request, in 1996-97 the Department of Gaming and Racing undertook a review of Governor's licences, including the legislative provisions under which these licences operate. The review found that, on the whole, Governor's licences allow useful flexibility in circumstances where the more traditional types of licences are not suitable. The review recommendations included changes to the conditions imposed on some individual Governor's licences, and proposals for legislative amendments to ensure this licence type is subject to the same responsible serving requirements as other licences. The bill proposes three amendments in regard to Governor's licences.

The first amendment will require applicants for Governor's licences to satisfy responsible serving requirements before having their licences granted. The Government's landmark harm minimisation legislation, which commenced on 1 October 1996, requires the Licensing Court of New South Wales to refuse a licence application unless the court is satisfied that responsible serving practices will be in place on the premises as soon as the licence is granted, and that those practices will remain in place. The intention of the harm minimisation legislation was that all licence applications would be captured by this requirement. However, the decision to grant a Governor's licence is made by the Governor, not the licensing court, and this has meant

that the requirement to satisfy the court in regard to responsible serving practices does not apply.

The bill clarifies this position by requiring applicants for Governor's licences to meet the same standards. Under this proposal, before a Governor's licence application can be recommended to the Governor by the Minister, the Minister will need to be satisfied that responsible serving practices will be in place, and will remain in place, on the premises. The Minister's decision may be based on information provided in a report on the licence application prepared by the Liquor Administration Board, or on other relevant information.

The second amendment will enable complaints to be made against a person or organisation that is responsible for a Governor's licence where that person or organisation does not exercise proper supervision and control over the supply of liquor. This proposal is modelled on the complaint provisions passed by the Parliament last year in respect of non-proprietary associations with functions licences. This proposal will allow disciplinary action to be taken against a person or organisation holding a Governor's licence, in addition to the complaint action that can already be taken against the licensee. It is essential that organisations holding Governor's licences take responsibility for the operation of the licence. The proposed amendment sends a clear message to those organisations that they, in addition to their licensees, must ensure that responsible serving practices are in place on the licensed premises.

As a consequence of the introduction of this new complaint provision for Governor's licences, the opportunity has been taken to redraft the complaint provisions of the Liquor Act. Those provisions are complex, as a result of numerous amendments over a number of years. The complaint provisions are a fundamental aspect of the Liquor Act. The new structure provides a plain English approach and an improved layout.

The third amendment provides for the automatic cessation of a Governor's licence when there is a change in the circumstances under which the licence was originally issued. Those circumstances are spelt out in the Liquor Act. Where there is a change in those circumstances—for example, as a result of the privatisation of a public authority or where premises are no longer on Crown land—it is appropriate that a different liquor licence apply. This proposal aims to preserve the unique characteristics of Governor's licences, which, by their nature, should be restricted to certain classes of premises.

I will now turn to the proposed amendment in relation to minors' entertainment. The bill introduces changes to the minors' entertainment provisions to allow alcohol-free entertainment for minors on nightclub premises. This proposal builds on the scheme that is already in place in regard to this type of entertainment in hotels. In 1996 the Government's minors' entertainment legislation significantly changed the way hotels could conduct alcohol-free entertainment for young people. As a result of those changes some 30 hotels in metropolitan and regional areas of the State now have minors' entertainment authorities.

It is pleasing that so many hotels have responded, and there are now more alcohol-free and supervised venues where young people can socialise with their peers. Registered clubs have also been offering this type of entertainment for young people for many years, and they continue to do so. The bill proposes an extension of the alcohol-free entertainment scheme by allowing nightclub licensees to apply to the Licensing Court for an annual functions authority.

The police will have an opportunity to object to the grant of an authority, and the Liquor Act provides a specific complaint provision so that steps can be taken if it is found that an authority is not being exercised in the interests of young people and the community. In the case of alcohol-free entertainment in hotels there is a lower age limit of 15 years. The same age limit will apply to minors attending alcohol-free entertainment in nightclubs. When granting a minors' functions authority for a nightclub, the licensing court will be required to impose conditions on the authority concerning the level of adult supervision required for each function; the steps that the licensee must take to ensure that minors attending or departing from a function do not disturb the quiet and good order of the surrounding neighbourhood; the steps that a licensee must take to enable the safe conduct of minors in the vicinity of the licensed premises; and any other conditions that the court thinks appropriate to impose.

These authorities are subject to a set of standard conditions that are provided for in the Liquor Act and the liquor regulation. Those controls prevent alcohol from being brought into functions, and stop persons who appear to be affected by liquor from entering functions. The main difference between hotels and nightclubs is the size of the premises. Nightclubs often comprise only one or two rooms and, unlike hotels, it would no doubt be difficult to close off one part of a nightclub for an alcohol-free function. Therefore, the bill proposes additional conditions for minors' alcohol-free

entertainment in nightclubs, which will have the effect of suspending the nightclub licence while minors are on the premises attending an alcohol-free function. In other words, it will be a condition that normal trading stops while the function is taking place.

The bill also proposes a one-hour trading break between the end of the minors' function and the reopening of the premises for adult patrons. This changeover period was recommended to me by the New South Wales committee on under-age drinking—a ministerial advisory group which represents the liquor industry, young people, major welfare organisations and relevant government agencies. The committee supports this proposal, which will increase the number of venues able to offer alcohol-free entertainment for young people—very much a need in our community these days. The bill also proposes consequential and other minor amendments of an administrative character. The amendments to the Liquor Act include statute law revision or clarification relating to function liquor licences.

The amendments relating to function liquor licences are minor measures that are largely consequential to the function licence legislation passed by the Parliament in December 1997. They do not in any way change the content, spirit or intent of that legislation. The function licence provisions of the 1997 Act have not yet been commenced, and the proposed consequential amendments will facilitate and enable the commencement of those provisions. The amendments to the Registered Clubs Act also include minor modifications to various provisions, including amendments recently inserted by the Liquor and Registered Clubs Legislation Amendment (Community) Partnership Act 1998. These amendments, which are of a statute law or similar nature, primarily relate to transitional provisions, and bring the legislation in line with the intention of Parliament at the time the original amendments were considered. I commend the bill to the House.

**Debate adjourned on motion by Mr J. H. Turner.**

## **PAWNBROKERS AND SECOND-HAND DEALERS AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 29 April.**

**Mr J. H. TURNER** (Myall Lakes) [8.01 p.m.]: The Opposition will not oppose the

Pawnbrokers and Second-hand Dealers Amendment Bill 1998. Having said that, the Opposition continues in the role of the conscience to the Government in highlighting one particular aspect out of all those contained in the bill: that is, the role of record keeping by electronic means, namely, by computer and the downloading to the police department's computer-operated police system, COPS. The others items will be dealt with later. It will be necessary during the second reading debate for me to refer to previous legislation and also proposed regulations which will run parallel to this bill, namely, the Pawnbrokers and Second-hand Dealers Amendment (Records and Goods) Regulation 1998 which were referred to in the former Minister's second reading speech.

The bill extends the requirement for record keeping by electronic means to second-hand dealers. The previous regulation, namely, the Pawnbrokers and Second-hand Dealers Regulation 1997 No. 163, required electronic lodgement only by pawnbrokers. I was not the shadow minister when the Pawnbrokers and Second-hand Dealers Act of 1996 was brought in but I was certainly on the scene when the regulations commenced on 3 April 1997. I picked up the gazettal of the regulations through the *Government Gazette*. I immediately asked some of the pawnbrokers in my electorate whether they had been given any notification of the requirement to lodge their documents electronically from 1 May 1998 and download the information to the police. Coincidentally, I asked whether they were aware of the significant increase in fees that would be payable on renewal of their licences. They had not. I then wrote to a cross-section of pawnbrokers right across the State again asking whether they had been contacted. Again, they had not. This arbitrary action by the Government without consultation was a hallmark of the then Minister.

Ultimately it brought the wrath of the industry onto the Government's head. It is ironic that, with the resources of no more than a backbencher, I was able to alert the industry to the Government's proposals. The industry was in uproar over the issue, not only because of the arbitrary decision to create the regulation requiring electronic record keeping but also because the industry was not prepared for it as the department had not provided information about the change. Many of the people who trade as pawnbrokers are small operators, and certainly many are not literate in computerisation. The need to purchase computers and software imposed both a psychological and an economic hardship upon them. The arbitrary date was not one that could be adhered to in the end, and by a further regulation from the latest former Minister the date for the implementation had to be pushed out to January 1999. One of the reasons for this was that the

software simply had not been developed. Indeed, I understand it has not yet been fully developed and is still being worked on. The Opposition pushed for small operators to be able to continue to lodge their records without having to buy expensive computers and software.

The Government backed down and undertook to allow the pawnbrokers—and now under the proposed regulation second-hand dealers—to lodge their returns manually in written form provided their sale of used goods is less than \$150,000 per year. That figure has to be backed up by tax returns or audits. The Opposition welcomes the Government's acceptance of the Opposition's suggestion on this issue. The Regulation Review Committee also stepped into the fray because of its concerns about the 1997 regulation. I understand that members of the Regulation Review Committee will speak on this bill today. I was kindly asked to attend the Regulation Review Committee on 21 May 1998, having previously attended in September of last year. In September of last year there was significant hostility between the parties that attended that meeting—namely, the Antique Dealers Association, representatives of pawnbroking businesses and others in the industry—towards the police from the information technology section and officers of the Department of Fair Trading. It was clear that there had been a significant communication breakdown in relation to this matter.

Last week it was heartening to return and to hear all parties stating that there had now been significant consultation with the department and that headway had been made. However, there did appear to be some intransigence by the police, and I would say that there was even a lack of information about the level to which they have developed the program for integration with the police computer programming system. That matter certainly has to be resolved and resolved quickly. The Opposition believes that unless this system works properly from day one it is pointless trying to put a further arbitrary date such as 1 January 1999 on the industry to implement it. I fear that the program may be put into place without sufficient testing. This could result in a significant loss of information or confusion, which would defeat the primary aim of the proposal for electronic lodging to police: the rapid detection of stolen goods.

The Opposition will not oppose the bill but if everything is not absolutely A1 and ready to go with a guarantee that there will be no foul-ups the Government will have to push back the starting date until there is an absolute guarantee that the police department computers and the computer systems to be installed in the businesses of pawnbrokers and second-hand dealers are compatible and able to

transfer information. There are certainly other matters to be determined and worked out. I suspect that the Regulation Review Committee will have a view in that regard, particularly about the need to have a full record of all the purchasers' details and the need to download the information within 24 hours to the police. If people are making manual returns and are trading under less than \$150,000 of used goods a year they will not be lodging information within the 24-hour period. The police stated that the 24-hour download was to enable rapid detection of stolen goods, particularly before they were disposed of by the pawnbroker. However, it was pointed out that a pawnbroker has to hold a pledge for at least 14 days before disposing of an item.

The industry spoke strongly against the principle of downloading the information within 24 hours during the recent Regulation Review Committee hearing. It is just a matter of simple commonsense that operators may well not be able to download in 24-hour periods. If they do not, they breach the conditions of their licence and the law. Although I take note of Chief Inspector Parkin's comments at the Regulation Review Committee's hearing that it is important to have information relayed to the police quickly for the early detection of crime and stolen goods, the industry says that it simply cannot occur. It gave examples such as an operator being ill or unable to attend his business on a particular day for some reason and employees not being able to transfer the information.

The industry submits that on weekends it would be totally impractical to get the information into the police system, for a variety of labour and logistical reasons. The real concern was that if there was this continual bombardment of daily downloadings by all the pawnbrokers and second-hand dealers across New South Wales the police system might not be able to take the load. I hope in the new spirit of consultation between the Department of Fair Trading and the industry a compromise can be reached on this aspect. Naturally, that will involve the goodwill of the police.

Because of the impracticalities raised by industry and canvassed earlier the Opposition reserves its right to disallow, when it is tabled, that part of the proposed regulation that refers to the need to download within 24 hours. It was suggested that a staggered download could occur on allotted days. That seems to the Opposition to be a realistic option. I note also that testing of the computer system is due to be undertaken on 1 November, with the implementation date on 1 January as mentioned. Nowhere are there spelled out the education processes for people required to bring computers on

line. The 1997 regulation and the discussions surrounding it indicated that an education process would occur through the department. My comment at that time, and it is the same now, was that the department must understand that the education process has to be extensive and widespread.

I recall that there were proposals to provide computer education programs in various large regional centres. At that time I surveyed a cross-section of people in some of the centres. I calculated that some people would have to travel 300 kilometres or 400 kilometres to attend the session. Obviously, as these people run small businesses and are often sole traders they would be reluctant to close shop and drive that distance, with the effect that many people may not take up the offer and thus not be fully cognisant of their requirements under the Act and the operation of the proposed computer software. The Government must take those aspects into account and provide a longer trial period if necessary. The Opposition is saying that the process must be road tested, and road tested properly.

A number of people who gave evidence to the Regulation Review Committee indicated that their records were already computerised. If those directly involved in getting the process up and running—the police, the Department of Fair Trading and consultants involved in the process—have not spoken to the people on the ground, at their premises and with their existing computerisation, they are not carrying out their duty. On the final matter relating to records, the explanatory note to the bill states:

**Schedule 1[5]** requires every licensee to furnish particulars of all records kept under the Act or the regulations to the Commissioner of Police, if required to do so by the regulations.

Whilst there is obviously a caveat on the words "all records" by reference being made to the regulation, section 17A of the Pawnbrokers and Second-hand Dealers Amendment (Records and Goods) Regulation 1998 refers back to the Act the requirement to lodge a specific type of record. However, as I said, schedule 1[5] will require all records to be transferred. That matter must be clarified as it is pointless sending irrelevant records on the computer, which can only have the effect of clogging the computer and creating unnecessary work.

Other matters that arose at the Regulation Review Committee meeting show that other anomalies exist and need to be examined. For instance, Mr Aronson of the Antique Dealers Association highlighted the fact that antique dealers

often buy large quantities of goods overseas, if not all their goods; and before those goods land at their shop they must undergo significant record keeping to satisfy the requirements of the Federal Government and, not the least, customs. Those records to be kept should be integrated; dealers should not be required to do the whole thing twice.

Mr Aronson also highlighted the fact that many antique dealers buy from bona fide auction rooms such as Christie's of London. To comply totally with the Act it would be necessary for them to obtain the personal particulars of the actual auctioneer at Christie's, including his date of birth. It was highlighted that garage sales and auction sales are excluded from the Act and that there is no form of regulation to keep track of goods sold through those methods.

I am somewhat disturbed that pawnbrokers and second-hand dealers are being informed that their licences will not be renewed unless they have a computer by 1 January 1999. It was understood that the need for a computer would come on line as licences were renewed throughout a 12-month period. If that is not the case, many people will not get a licence issued if they do not have a computer on 1 January 1999. I understand that the Department of Fair Trading will look into that matter. I trust that if that anomaly exists it will be sorted out quickly.

Other provisions of the bill are straightforward. As I said, they enjoyed consensus from those present at the Regulation Review Committee meeting last week. That is not to say that the provisions will enjoy consensus from pawnbrokers and second-hand dealers across the State, but they appear at face value to be commonsense amendments that can only assist the industry. Having said that, however, I reiterate my opening comments: I do not have the resources of government but I have been able to contact a large number of pawnbrokers and second-hand dealers on this issue. I should have thought it would have been relatively easy for the department, with its resources, to contact every pawnbroker and second-hand dealer in New South Wales and to apprise them of the 1997 regulation, this bill and the proposed regulation.

When I raised this issue during discussion of the 1997 regulation, about which the industry was up in arms because of the lack of consultation, I was told that this was all too hard because licences were previously issued by the Local Court. I thought it would be relatively easy for the department to send a letter to courthouses throughout New South Wales asking them to check their receipt books and to note

the names and addresses of pawnbrokers and second-hand dealers who had renewed their licences for the previous 12 months. Whilst that may be a reasonably onerous task in some high-density areas in Sydney, it certainly would not be onerous in country areas as only a handful of people would be involved.

To ensure that this legislation works smoothly, it is vital that it be explained to the people in the industry, not the least being those on the ground who must supply the records, consumers involved with pledging and selling second-hand goods and police who are required to track down stolen goods. Simply everyone involved or affected must be made aware of this legislation. A number of second-hand dealers in my electorate of Myall Lakes and further afield have not had any information other than what I have told them. In any event, I find it staggering that the Department of Fair Trading—an organisation charged with administering the Act regulating pawnbrokers and second-hand dealers—does not have a database of the people it administers and takes money from, particularly as this legislation is designed to help stop the illegal trade of stolen goods.

Therefore, it is incumbent on the Department of Fair Trading, if it has not already done so, to secure a database of every pawnbroker and second-hand dealer in New South Wales. It should then write to those involved setting out the situation. Further, it should ensure that in the future it keeps the industry well apprised of matters that may affect the industry because this will be a volatile time as many pawnbrokers and second-hand dealers switch from traditional record keeping to computer record keeping. The department has a golden opportunity to extract some goodwill from traders and to lift the name of the Department of Fair Trading, which, naturally, should look after traders as well as consumers.

**Mr SHEDDEN** (Bankstown) [8.17 p.m.]: I support this bill, which is part of a package of reforms to the Act and regulation. The bill, to a significant degree, follows on from the work of the Regulation Review Committee as detailed in its twelfth report dated 12 November 1997. I acknowledge the role played by the honourable member for Myall Lakes in bringing about the necessary changes to the legislation. On 16 September 1997 the honourable member drew the attention of the Minister for Fair Trading to problems with the computerisation provisions. The committee's report showed that there had been insufficient assessment of and consultation on the regulation, particularly with respect to the new

mandatory requirement for computerised records, and that there were serious privacy concerns relating to the records required to be kept.

In September 1997 the committee received a briefing on the regulation from the Department of Fair Trading, the Police Service and certain organisations and businesses that had raised concerns about the regulation, including the Privacy Committee, the Pawnbrokers Association of New South Wales and the Antique Dealers Association. The honourable member for Myall Lakes also attended that briefing. It emerged during the course of discussion that though the mandatory computerisation was due to commence in May 1998, the details of it were yet to be finalised by the department. At the conclusion of the briefing it was agreed by all parties that the Department of Fair Trading would examine by way of a supplementary regulatory impact statement the merits of the issues raised and the submissions made by other parties. It was also agreed that the further assessment would be distributed to other parties and to the Regulation Review Committee.

On 11 November 1997 the Minister provided a detailed response to the committee and advised that following some five months of operational experience of the Act and regulation a comprehensive review of the legislation would be undertaken. That has resulted in the proposed amendments. The most significant amendment approved by Cabinet was the recommendation to exempt second-hand dealers from the requirement of computerisation on a yearly basis if their gross receipts for the previous financial year totalled \$150,000 or less and they held a second-hand dealers licence prior to the introduction of the new legislation.

On 20 March a regulation was published that amended the principal regulation in order to delay the commencement of the computerisation scheme from 1 May 1998 to 1 January 1999. More substantive amendments, however, are contained in the draft Pawnbrokers and Second-hand Dealers Amendment (Records and Goods) Regulation 1998, which the Minister made available for the information of this House during debate on the second reading of this bill. On Thursday, 21 May, the Regulation Review Committee obtained from stakeholders a further briefing on the regulation.

Licensees are concerned about the revised commencement date of 1 January 1999 for the mandatory computerisation of records, particularly as members of the Police Service are still having difficulties with the introduction of the new system.

They are equally concerned about the 24-hour deadline for the transmission of all their records. They believe it will be impossible to comply with this provision when they trade on weekends. Nevertheless, the Department of Fair Trading has given an undertaking to address these concerns after further consultation. The department has certainly improved its consultation with industry. Mr Charles Aronson, President of the New South Wales Antique Dealers Association, said in his presentation to the committee last Thursday:

In contrast to the last time I spoke to this Committee, I'd like this time to congratulate the Department of Fair Trading specifically, but also to a lesser extent the Police Department for their consultative process, because, whereas last time we got the feeling they were operating in a vacuum, certainly these amendments have come much more into line with what the industry expects and can use so we're really delighted with that.

Through the intervention of the Regulation Review Committee much more reasonable and workable legislation will be put in place and, most important, proper consultation will be undertaken. I support the bill.

**Mr RIXON** (Lismore) [8.24 p.m.]: My electorate has more than its share of drug-related crime. Consequently, pawnbrokers and second-hand dealers in Lismore are fully aware of the problems associated with dealing in second-hand items. For example, they will not touch electrical goods, pushbikes and other articles that more often than not are the proceeds of robbery. They are suspicious the moment anyone attempts to sell them such items. A local second-hand dealer told me about a person about whom he became suspicious when he attempted to sell some household crockery. When the person left the second-hand dealer's premises to obtain more items, the dealer rang the person's parents, who discovered that their kitchen was being rifled by their drug-addict son. My constituents believe that existing legislation encourages honest people to remain honest. However, they regard this bill as overkill. Dishonest people will still be able to buy a houseload of furniture, take it a few hundred kilometres down the road, and sell it off at garage sales or auctions without any fear of any check being conducted. This bill will be a further imposition on honest dealers and the dishonest will continue to act dishonestly.

The department has decided to require computerisation for recording purchases. Is such a program available to assist small businesses and, if so, what is the cost of the program? The Regulation Review Committee at its first briefing last September with officers from the Department of Fair

Trading and the Police Service was advised that they were still unsure about how the regulation would work. Last Thursday the committee was informed that they were still working on it. Is this any way to encourage small business? When the principal legislation was introduced my constituents were understandably concerned that they were in breach of its provisions because they did not use computers.

Last Thursday representatives of the Pawnbrokers Association of New South Wales and the Antique Dealers Association of New South Wales informed the committee that they were still concerned about the volume of records they have to supply to police and the short time in which those records are to be provided. It was suggested that the information would have to be supplied within 24 hours—an almost impossible imposition. I acknowledge that there has been considerable consultation on the bill and draft regulation, but that has been brought about as a result only of the hard work of members of the Regulation Review Committee, with the assistance of the honourable member for Myall Lakes. It is about time all departments learnt to consult widely and adequately before introducing legislation that can have such a disastrous effect on people's livelihoods.

**Ms HALL** (Swansea) [8.28 p.m.]: I should like to congratulate the Minister and the Department of Fair Trading on the Pawnbrokers and Second-hand Dealers Amendment Bill. The bill has demonstrated the way in which the Government and the Department of Fair Trading have responded to the concerns of the industry, the police and the community to ensure that the legislation is more workable. As a member of the Regulation Review Committee I have been involved with the detailed review of the regulations associated with this legislation. On two occasions the Regulation Review Committee met with industry stakeholders to look at the impact of those regulations.

At the briefing on the amendments to the regulations held last Thursday the Director of Strategic Operations for the Department of Fair Trading advised the committee that the department had expanded its program of consultation with the pawnbroking and second-hand dealing industry. The department is to be congratulated; this consultation will make the legislation more workable. The extensive consultation by the department since November and the subsequent meeting of all the main stakeholders on 7 May have led to the general acceptance of both the legislation and the regulations. Some minor matters still need to be resolved and I feel sure that after consultation with police the few remaining problems can and will be resolved.



Following consultation with all stakeholders the regulations were amended to exclude lots of copper and non-ferrous metal and metal alloys as prescribed goods, and furniture having a value greater than \$200. Therefore, second-hand furniture traders are not required to hold a licence, a problem that was raised at the initial meeting of the Regulation Review Committee. Both issues were raised and have been dealt with—an indication that consultation can resolve problems. Farm and industrial machinery, local council recycling schemes and motorised wheelchairs have been excluded from the regulations. Small-scale second-hand dealers are exempt from the requirement to keep computerised records, that is, businesses that have less than \$150,000 gross receipts.

Last November the committee was told that there had been lack of consultation, and that the issues that have now been amended had not then been addressed. The department later changed that situation through consultation, which should be a model for other departments. I am sure that in future the department will undertake consultation before it comes out with regulations and legislation. An important requirement of the legislation is that all records kept by licensees under the Act be sent to police, whether those records are kept manually or electronically. The provision that records be sent to the police is the key to ensuring that stolen goods are located quickly, and removes the need for police to physically attend the premises of the licensee.

It is my understanding that some minor problems are still outstanding, and they can only be resolved if the police and the stakeholders consult on those matters. One issue that is still a problem is the implementation of the electronic transfer program and the time it takes. This issue will be addressed and I hope that with the industry's assistance the police can solve the problem quickly. I congratulate the department, the Minister for Fair Trading and the Minister for Community Services who, as a former Minister for Fair Trading, contributed to the development of this legislation.

**Mr MERTON** (Baulkham Hills) [8.33 p.m.]: Pawnbroking is a complex business. Pawnbrokers are in business to make money and to provide a service to members of the community who need to avail themselves of their services. Pawnbroking involves complex dealings with people over goods and items of dubious title. A pawnbroker conducting such business must obey the law and be fair in all circumstances. The legislation has merit. The bill makes provision for records kept electronically, and enough has been said about that by other honourable members.

The keeping of electronic records is a good idea. In essence, the bill tightens up the provisions of the Pawnbrokers and Second-hand Dealers Act 1996. The Director-General of the Department of Fair Trading will have the functions of granting or refusing a licence application and of renewing licences. The bill further provides that a person who holds a pawnbroker's licence can carry on a pawnbroking business only from the premises specified in the licence application, or application for renewal, or such other premises as may be later notified to the director-general.

In other words, if a person makes an application to trade from certain premises he has to continue as a licensee from those premises. If the licensee wishes to trade from another premises he will have to apply for transfer of his licence. That is commendable. The bill empowers the Governor to make regulations requiring any person who offers goods to a pawnbroker or second-hand dealer to provide further evidence of his or her identity other than that which is presently required. That is also a good idea. I have expressed the wish that the Government make similar provision for voter identification. My friend the honourable member for Coffs Harbour has introduced legislation requiring voters to produce evidence of identity. The identification requirements of this bill would be suitable for identification of voters.

The bill provides that all records kept by licensees under the Act be furnished to the Commissioner of Police, including those not required to be kept electronically. That is a sensible provision. The bill addresses the conflict that constantly confronts a pawnbroker, that is, having in his or her possession, often unknowingly, second-hand goods and items that are suspected of having been stolen or otherwise unlawfully obtained—goods which will have to be kept, unaltered, for a longer period than is presently the case. In other words, the pawnbroker is not able to convert, change, alter or interfere with goods until a certain period has expired.

In addition, if ownership is claimed, the goods are to be retained until any criminal proceedings in relation to the theft of those goods are concluded. Recently one of my constituents telephoned me and spoke about mobile phone theft; his had been stolen. With the new digital system the SIM card—the single inline module card—could easily be replaced without the necessity to prove identity. Replacement of a mobile phone SIM card legitimises title to the phone. Stolen goods will have to be retained until the conclusion of criminal proceedings, which ultimately may determine the title of the goods.

As set out in the explanatory note to the bill, schedule 1[4], which amends section 15, provides that the regulations may prescribe that a licensee is also required to obtain oral or documentary evidence or other matters, such as the person's date of birth. That is an excellent idea. Schedule 1[12] provides for regulations to make provision for or with respect to the use by pawnbrokers of electronic methods of creation of records. Schedule 1[7] empowers an authorised officer who has reasonable grounds to believe that second-hand goods purchased or received in the course of a licensed business have been stolen or otherwise unlawfully obtained, to prohibit the licensee from altering the form of the goods, disposing of the goods, allowing them to be redeemed or parting with possession of them. At present such a notice remains in force for 21 days and may be extended once for a further period of 21 days. The proposed amendment provides for such a notice to be in force for 56 days.

Where the title of the goods is in dispute, at present the goods are to be retained for 28 days, unless within that time civil court proceedings are commenced to recover the goods. If such proceedings are commenced the obligation to retain the goods applies until the proceedings are concluded. In other words, if there is a civil court case relating to the ownership and title of the goods, the goods are to remain intact in situ until the proceedings are finalised. A similar provision applies with regard to criminal proceedings. I support the legislation. I realise that certain aspects of it need to be overcome as far as electronic records are concerned, but by and large it is good legislation that will certainly assist members of the community and will introduce a fair balance between the rights of people who may have properties in dispute and the obligations of pawnbrokers who conduct a legitimate business.

**Mr CRUICKSHANK** (Murrumbidgee) [8.42 p.m.]: The Minister has told us that the bill strengthens the fundamental aim of the Act to curtail the trade in stolen goods by requiring that licensees furnish all their records to the Commissioner of Police in accordance with the regulations. The regulations impose mandatory computerisation of records. However, when the regulations were made last year the details of that computerisation had not been finalised by the police department. The regulations still had not been finalised when the committee held its briefing with all the stakeholders in September last year. When the committee met with them again last Thursday the committee was told that the police department still had not got the software right, that it was still being developed. In fact, the commencement date for mandatory

computerisation had to be extended from 1 May 1998 to 1 January 1999 by an amending regulation published in March.

This is simply no basis on which the Regulation Review Committee can support the legislation. The computer scheme should have been tried and tested in the offices of a number of different licensees before anyone thought of legislation, because this scheme that the Government is introducing is fairly revolutionary, involving pawnbrokers, antique dealers and second-hand dealers across the State. The chairman of the committee was informed that the main complaint about the legislation was the lack of consultation. It is not surprising that licensees have serious misgivings about the scheme, given the poor record of consultation on the principal legislation.

In my electorate we have about five second-hand dealers who come under the Act. When the principal regulation was made last year I made inquiries of all of them and was told that lack of consultation was the most worrying aspect. Dealer one knew of the changes that were taking place only because he had spoken to an auctioneer. Dealer two did not know about any changes whatsoever to the regulations. Dealer three knew that changes were taking place because he had spoken to a local clerk of petty sessions. Dealer four was definitely not consulted by anyone about any changes to the legislation or regulations and had not heard about the computer aspect. She knew that changes were to take place, but she thought it would be done through Sydney and it would now cost a lot more per year. Dealer five knew nothing whatsoever about the changes until he spoke to another dealer who had been in touch with my electorate office.

This is an appalling record, particularly considering that consultation has been mandatory for proposed regulations since the Subordinate Legislation Act commenced in 1989. Indeed, if it had not been for the committee requesting the Department of Fair Trading to explain the matter, and if my colleague the honourable member for Myall Lakes had not drawn it to the attention of the House, I am sure the regulation would be implemented by now, with licensees still in the dark about their responsibilities. The Minister now says that following some five months of operational experience of the Act and regulation a comprehensive review of the legislation was undertaken and that these amendments to the Act and regulation will substantially address many concerns which have been raised by the pawnbroking and second-hand dealing industry. That is not good enough.

The regulations should have been properly assessed before they were made, as is required by the Subordinate Legislation Act. Commonsense dictates that the same should have been the case for the Act. I am happy to say that the present chairman of the committee is carrying on the tradition of pursuing the regulation. The Minister tells us that the most significant amendment is the exemption of second-hand dealers from the requirement for their records to be computerised on a yearly basis if their gross receipts for the previous financial year totalled \$150,000 or less. This limit has also been adopted without consultation. The committee sought the views of licensees. One pawnbroker, who was not consulted, thought that the limit was unworkable as it was set too high. Others suggested that a limit of \$10,000 or \$20,000 would be more appropriate. I, on the other hand, think that the limit is set too low. However, the question for the Minister is: where is the cost benefit assessment of this limit?

It is true that the consultation on these amendments is in marked contrast to that on the principal legislation. However, the Minister is still asking licensees to accept the computer scheme on faith alone. If the proper process had been followed last year, a trial of the scheme could have been held and appropriate legislation would then have been put in place without the need to take up more parliamentary time or to cause more concern to the licensees. I pay tribute to the chairman of the Regulation Review Committee, who has done a fantastic job flushing out difficulties. I pay tribute also to the police, who I believe are also distinctly uncomfortable about computerisation and downloading. The Opposition supports the bill but recognises the need for many aspects of it to be reviewed.

**Mr HARTCHER** (Gosford) [8.48 p.m.]: I acknowledge the valuable work done in our society by pawnbrokers and second-hand dealers. They provide lending facilities to many disadvantaged people, they are of great assistance to them in times of difficulty, and of course in many cases they provide a social centre in their communities. There are a number of fine pawnbrokers on the central coast who are well recognised and well known in their communities. I acknowledge especially the Central Coast Loan Office, which has now been established at Long Jetty for some 12 years under the partnership of Kevin May and Matthew May. Kevin May and Matthew May are well regarded by the citizens of the community, by the police, and by me as a member of Parliament. Indeed, they are well-respected citizens of New South Wales.

It is important that pawnbrokers not be too tightly regulated by government. There seems to be a tendency, which is borne out in this bill, to believe that many social problems can be solved simply by tightening up the regulations on pawnbrokers. I do not believe that is so. I believe pawnbrokers are overwhelmingly honest people who are anxious to deal responsibly with citizens. They are not interested in receiving stolen property, and they are certainly not interested in being used by thieves for their own purposes. They wish to deal with honest citizens and they wish to get a fair return for their own labour. They work long hours, they work hard and they are entitled to the respect and support of the community.

While I agree that most aspects of the legislation are designed to improve the way pawnbrokers operate, it has to be borne in mind that some provisions of it impose quite a burden upon them. In particular I draw attention to the provision of the Act that enables notice to be given to a pawnbroker to retain goods suspected of being stolen or otherwise required for police purposes. That was originally set at 21 days and is to be amended to 56 days, and will impose a cost upon the pawnbroker who has to provide storage and administration. The pawnbroker cannot utilise his access to the goods, even though they have been pledged as security in return for money. It is important that at the end of the 56-day period the pawnbroker is notified about what is to happen with those goods so that he can carry on his normal business.

Pawnbrokers are anxious to co-operate with the police, but in return they are entitled to the co-operation of the police. If a system of electronic records is to be introduced, and if the police are to be able to download those electronic records, appropriate training and instruction will need to be given to pawnbrokers. It is not merely enough to expect small business people to suddenly become skilled in interpreting government regulations. They are not trained in that skill and if the Government and the community impose expectations upon them, the Government and the community should be prepared to assist in training them and making sure they understand, and that have the capacity to live up to their responsibilities. In this respect especially, the police should be urged to act as educators, not merely as law enforcers anxious to bring an infringement action against a pawnbroker for the slightest misdemeanour.

Police should encourage pawnbrokers in the correct keeping of records and assist them when

problems arise. Pawnbrokers should be able to welcome the police into their businesses, knowing they are going to receive assistance. Police should not be feared as the harbingers of bad tidings or regarded as individuals who will take action against pawnbrokers for the slightest and most technical breach. This legislation imposes a heavy obligation on pawnbrokers, to obtain documentary evidence of the name, address and identity of the person who pledges the goods. Often identification papers have been stolen by the thief along with the stolen goods, but under this legislation liability is on the pawnbroker, who may have acted in good faith.

I urge sympathetic interpretation and enforcement of the Act. Those involved are small business people, anxious to serve their communities and uphold the law. They should be regarded as people deserving of assistance and not the heavy hand of the law. I have been a member of Parliament for the central coast region for 10 years and I have not received a complaint about a pawnbroker. I believe that pawnbrokers on the central coast operate in good faith and for the benefit of their communities.

**Mrs LO PO'** (Penrith—Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women) [8.53 p.m.], in reply: I thank honourable members who have participated in the debate. This matter has had a long history but it appears that there is consensus. Peace has broken out in the Chamber! I want to take up a number of points raised during the debate. The honourable member for Myall Lakes was concerned about the 1 January date. He was worried that 1 January would come around and licences would not be renewed, but it is exactly as he hoped it would be and not as he feared it might be. It does not mean that everyone must come online at once; it means that all licences renewed after 1 January next year need to come online with the computer.

The other concern related to the police. The New South Wales Police Service has confirmed that there is no potential for data from licensees to jam the police computer system. The Police Service is specifically designing a computer system which will be able to process and cope with high volume data. The cross-checking of computerised records of pawnbroker and second-hand dealer transactions with police records of stolen property will achieve maximum results only if all electronically recorded licensee transactions are transmitted to the Police Service. The Police Service is developing the software specifications. As a result, software packages will be available for software

manufacturers or, alternatively, if they choose to do so, licensees can develop their own software based on Police Service specifications.

The Police Service has given an assurance that the pawnbroking and second-hand dealing industry will be further consulted on the computerisation specifications, and a consultation meeting will be held within a few weeks. The talk of consultation was woven through just about every honourable member's speech. I want to put on the record the history of this matter. In December 1993, under the previous administration, a discussion paper on the review of the Pawnbrokers and Second-hand Dealers Act was released for public comment. Following the release of the discussion paper 54 submissions were received, including representations from the Antique Dealers Association of New South Wales, Cash Converters and the Pawnbrokers Association of New South Wales.

In July 1994 the final report of the review was completed and used as a basis for discussion with stakeholders, particularly industry representatives and officers of the Police Service. So, there were two years during which the previous Government actually consulted. The Department of Fair Trading placed advertisements in newspapers throughout the State and those advertisements were designed to draw attention of industry members to the new requirements, and provided a 1800 telephone number for inquiries and the sending out of free information and brochures. In 1997 the Department of Fair Trading consulted with the following organisations on the regulatory impact statement: the Pawnbroker's Association of New South Wales, the Antique Dealers Association of New South Wales, Neighbourhood Watch groups, the Insurance Council of Australia, insurance companies, and persons and organisations that had made submissions during the review of the legislation or otherwise made contact with the Department of Fair Trading on related issues.

Consultation extending beyond the abovementioned organisations was difficult to achieve due to the fact that second-hand dealers as a whole are not represented by a peak organisation and that the second-hand dealing industry is extensive and diverse in nature. Additionally, the Antique Dealers Association of New South Wales represents only a small proportion of second-hand dealers in New South Wales. Consultation was also made difficult because the Local Court, which previously administered pawnbrokers and second-hand dealers, did not have a centralised computer database of licensees. On 21 March 1997 a notice was published in the *Sydney Morning Herald* when

the regulatory impact statement was released, inviting comments and submissions.

Copies of the statement were mailed to all people and organisations who had originally made submissions or otherwise corresponded with the Department during the period of review. A total of 58 submissions were received after the process was finalised and the regulation was gazetted on 24 April 1997. Although some concern has been expressed about consultation, I believe that the Department of Fair Trading has made every effort in that regard. Given the barriers placed in its way, and the fact that it was changing from one system to another and did not have a collated list of names, I think the department did a sterling job.

I recall that when I was Minister for Fair Trading there was certainly no lack of correspondence from people in far-flung places such as Forbes and Parkes asking about what the legislation meant for them. They were sometimes two-person businesses and wanted to know what computerisation would mean for them. All in all, given the difficulty that has been involved in collecting this data, I believe that the Department should be congratulated. I say to honourable members in this Chamber who spoke in the debate and to those who listened that if this legislation goes some way towards supporting communities and preventing people who steal property from fencing it to pawnbrokers, it will be worthwhile. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time.**

**In Committee**

#### **Schedule 1**

**Mrs LO PO'** (Penrith—Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women) [9.03 p.m.]: I move:

Page 4, schedule 1[1]. Insert after line 12:

- (7) If an application for renewal is made before the expiry of the current licence, the licence is, subject to section 36, taken to continue in force from the day that the licence would have otherwise expired until the day that the applicant is notified that the application for renewal has either been granted or refused.

It is proposed that the bill be amended to provide that if an application for renewal of a licence is made before the licence is due to expire, the licence

is taken to continue in force from the day that the licence would have otherwise expired until the day that the applicant is notified and a renewal application has been either granted or refused.

**Mr J. H. TURNER** (Myall Lakes) [9.03 p.m.]: The Opposition does not oppose the amendment. As the regulation and the bill deal with computerisation, it would be nice if we could e-mail the licences so that we did not have to rely on the amendment.

**Amendment agreed to.**

**Schedule as amended agreed to.**

**Bill reported from Committee with an amendment and passed through remaining stages.**

**FAIR TRADING AMENDMENT BILL**

**HOME BUILDING AMENDMENT BILL**

**LANDLORD AND TENANT (RENTAL BONDS)  
AMENDMENT (PENALTY NOTICES) BILL**

**MOTOR VEHICLE REPAIRS  
AMENDMENT BILL**

**PROPERTY, STOCK AND BUSINESS AGENTS  
AMENDMENT (PENALTY NOTICES) BILL**

**RESIDENTIAL TENANCIES  
AMENDMENT BILL**

**RETIREMENT VILLAGES  
AMENDMENT BILL**

**Second Reading**

**Debate resumed from 29 April.**

**Mr J. H. TURNER** (Myall Lakes) [9.06 p.m.]: I will not enumerate the title of each of the seven amending bills at this time, but I will refer to them individually during my speech. The Opposition will oppose some aspects of the bills, not oppose other aspects, move amendments that I will foreshadow, seek clarification in other areas for final resolution of the matter in the Upper House and make observations in relation to that part of the Residential Tenancies Amendment Bill that was referred to in the Minister's second reading speech, namely, metering of utilities, which, I understand, will not proceed at this time. The Opposition is concerned at the manner in which these seven bills have been introduced. Many of the bills should have been considered in conjunction with the various

reviews, such as the reviews of the Residential Tenancies Tribunal, the New South Wales retirement industry and others, that the Government is presently undertaking.

The Opposition and those affected by the legislation are at a loss to understand why the bills, some of which were designed as exposure bills, were rushed in. One suspects it may have been to give the impression of business as usual for the former Minister. If so, it was an ill-conceived tactic. Rushed legislation, as honourable members have seen previously in this portfolio, has resulted in confusion. I will now deal with the bills seriatim as presented by the former Minister. In relation to the Fair Trading Amendment Bill 1998 the Opposition does not object to the enforcement by the Supreme Court of written undertakings to the Director-General of the Department of Fair Trading in regard to the director-general's functions concerning the Department of Fair Trading. This provision brings into line Commonwealth and State law and removes any doubt as to the importance of undertakings given in connection with the director-general's functions.

The Opposition objects to the proposed amendment to allow persons affected by any voluntary code to have direct access to the Commercial Tribunal and will move an amendment accordingly. As this bill is amending legislation introduced by former Minister Lo Po', the Government is amending its own legislation from a short time ago. The Opposition believes that the director-general's function of approving access to the Commercial Tribunal is vital. Alternative dispute resolution is far more desirable than parties appearing before tribunals. The director-general can offer advice that may ameliorate the situation or conciliate a matter that need not go to the tribunal. The director-general can also explain the realities of the situation so that consumers do not go directly to the tribunal with false hope. The legislation is designed not to deny people their day in the tribunal but to allow amelioration to occur wherever possible.

The Opposition is also of the view—particularly as this is under what is called the Fair Trading Amendment Bill—that access to the tribunal should be fair to both parties. The proposed Government amendment gives access only to the consumer. The Opposition is of the view that any person to whom the prescribed code applies should be entitled to access to the tribunal, and it will move an amendment to that effect. It will also move an amendment that seeks to maintain the approval of the director-general. A few moments ago I outlined

the reasons for the Opposition's second amendment. The Opposition believes its first amendment—that is, that any person affected by the code should have access to the tribunal—is a fairness issue. The amending bill provides that the proprietors of retirement homes or caravan and relocatable home parks, to which a voluntary code applies, would be forever the defendants when they may have legitimate concerns under the code. I commend our amendments, which provide for fairness and equity.

The Opposition will not oppose the provisions of the Home Building Amendment Bill but makes the following observations. The Home Building Bill was rushed into this Parliament by former Minister Lo Po', with little or no consultation with the industry and with virtually no infrastructure to enable it to work in a practical sense. For instance, the Minister produced an insurance company that wanted to be involved only the day before the private building insurance legislation was introduced. The industry had little or no knowledge of the bill, how it worked and the practical applications of insurance, compulsory contracts and the like. It had not been road-tested, and this amending bill is a result of the Government's reluctance to communicate with the industry and to ascertain the practical effects of its legislation.

Obviously, for consumer protection it would be necessary for subcontractors to owner-builders to have insurance. At present, if a person contracts with a builder to build a house on a property the builder has to effect insurance. The owner is completely covered for all the builder's work, whether it be done by the builder or the subcontractor to the builder. Why did it not occur to the Government at the time that owner-builders would have absolutely no protection if those same subcontractors—who may have subcontracted to a contracted builder and would have been covered by the builder's insurance—had subcontracted to the owner-builder and performed faulty workmanship or went bankrupt and were not covered by insurance? The owner-builder would not have any coverage whatsoever for any work carried out by subcontractors to the owner-builder.

The Home Building Amendment Bill is also the first of the series of bills the subject of this debate that refers to penalty notices. The Opposition will not oppose those parts of the Home Building Amendment Bill that refer to the requirement for insurance for subcontractors to owner-builders or that part concerning caveats, but I place strongly on record our opposition to that part of the bill that refers to the introduction of penalty notices for reasons I now set out in addressing the Landlord &

Tenant (Rental Bonds) Amendment (Penalty Notices) Bill. The Opposition opposes the introduction of penalty notices not only in the Home Building Amendment Bill as it affects the Home Building Act 1989 but also in other legislation that is being debated at this time. I note specifically that penalty notices are referred to in the Property, Stock and Business Agents Amendment (Penalty Notices) Bill, the Landlord and Tenant (Rental Bonds) Amendment (Penalty Notices) Bill, the Home Building Amendment Bill and the Residential Tenancies Amendment Bill.

I refer to the Landlord and Tenant (Rental Bonds) Amendment (Penalty Notices) Bill, but my comments could also be attributed to all the bills being debated today that contain penalty notice sections. The Government established the Residential Tenancies Consultative Committee. Matters concerning residential tenancies would normally come to that committee. I am informed by the Real Estate Institute that it is strongly opposed to the provision of penalty notices, particularly in regard to the amendments to the Residential Tenancies Act, on the basis that the issue has never been discussed or agreed to by the Residential Tenancies Consultative Committee. In a letter to me dated 30 April 1998, the institute stated, "The Institute considers it inappropriate that these reforms be introduced without appropriate consultation." I concur with that observation.

In 1988 the then Minister for Housing, the Hon. Joe Schipp, introduced the Residential Tenancies Amendment Bill which removed penalty notices. It appears that today the Government wants to move back a decade to practices that did not work and were removed at that time. It is the Opposition's view that the introduction of penalty notices is an indication by the Government that it no longer has sufficient people within the department with the expertise to evaluate situations and problems that may arise under the various Acts to which penalty notices are to be reimplemented. Surely the desired outcome in a conflict, dispute or statutory infraction would be, whenever possible, not to have any penalty notices issued but to have sufficient officers at the department to conciliate situations with parties who may have contravened to ensure correction rather than revenue raising. Surely it is better to seek rectification of the problem than to seek court intervention on an arbitrary penalty notice.

It is no secret that morale in the Department of Fair Trading is at such a low level that many people with experience have left. In the past those highly experienced people provided an excellent service to

protect both the consumer and the trader and to enhance a product. There was a spirit of co-operation between the department, the trader and the consumer. The officers' willingness to help will be removed as they will have the right to merely issue a penalty notice, walk away from the problem and allow the matter to be resolved by a tribunal or at a higher level. This is hardly fair and equitable either to the trader or to the consumer. Surely the desired outcome is to rectify the problem. If a trader becomes recalcitrant, action at the relevant tribunal or court level could be taken as a last resort. The inclination now will be at first instance to issue a penalty notice and for the department to effectively wipe its hands of the problem.

Also, there might be time before the penalty notice is dealt with, which will allow the perceived wrongful action to continue. I repeat: surely it is better for the department to remedy the fault in the first instance rather than to write a notice, walk away and say that the fault is no longer its problem. It may well be that because of the complexities of the law that traders have to face every day—honourable members should bear in mind that there are 54 pieces of legislation in this portfolio, and that other pieces of legislation affect traders daily in New South Wales—people simply may not know that they are breaching some aspect of the law to which a penalty notice applied.

It would be better to inform people by way of an educative process that they are breaching the law than to simply penalise them. If necessary, that could be followed up and action could be taken if a person has not rectified or remedied the situation. Prevention is better than cure. A penalty notice regime can only break down the interaction between trader, landlord or other affected person and the department. There is no guarantee a penalty notice will cure the defect. It will only have the effect of boosting consolidated revenue. Surely the carrot-and-stick approach is better than the big-stick approach.

This is another impost to small businesses, which will have had, through the Residential Tenancies Consultative Committee, no say as to whether a penalty notice is issued and no opportunity to remedy what might be a minor defect. If they wish to have redress, they will have to have their day in court. This will involve a real cost for legal representation and will make them take time out from their businesses, which will cause aggravation. This is an ill-defined, retrograde step which goes back more than 10 years. It is designed only to increase disharmony between the department and the trader and, naturally, is designed solely to increase the coffers of this cash-starved Government.

The implementation of penalty notices has the potential to increase substantially the income to consolidated revenue because of the volume of law with which traders must comply.

The Opposition will oppose the implementation of penalty notices at this time. So we can be clear on this matter we reserve the right, when in government, to revisit the matter of penalty notices, but we will do it in consultation with all those who may be affected by the introduction of such legislation. It may well be that in some instances business will see benefits in it, but whatever the case, we will consult the parties affected and not try to ram through legislation, as is happening in this case, with no consultation. The Opposition will specifically oppose each part of each bill being debated today which refers to or has in it the implementation of penalty notices.

I now turn to the Motor Vehicle Repairs Amendment Bill. Whilst I note that some of those amendments could be called tidying up amendments in relation to changes that have occurred to various organisations which have the right to have a person on the Motor Vehicle Repair Industry Council, there is provision for an additional three members of the council to be chosen by the Minister for their expertise appropriate to the functions of the council. The Minister noted in his second reading speech that the council was established to "license persons undertaking repair work; conduct disciplinary hearings; help resolve disputes; operate a contingency fund; provide education and research funding; and otherwise promote improvement in the standards of motor vehicle repair work". The Minister went on to say in his second reading speech:

To provide for greater consumer input in a motor vehicle repair industry, it is proposed that three additional persons be appointed to the council. Such persons will be chosen by the Minister from persons who have expertise appropriate to the functions of the council.

In reading those comments and in noting previous statements made by the former Minister for Fair Trading, the Hon. Faye Lo Po', it appears that the three additional members are to be consumers. However, amendments to section 9(1)(h) do not use the word "consumer"; they merely use the words "expertise appropriate to the functions of the council". If it is intended that those people are to be some form of consumer watchdog over the council it is important for that to be spelt out. It is equally important to spell out how those three ministerial appointees have "expertise appropriate to the functions of the council" and, in particular, how they have such expertise in "considering the licensing of

persons undertaking repair work, in particular, in the conducting of disciplinary hearings" and how they might "resolve disputes".

The Minister must also spell out how they would have "expertise to operate a contingency fund", oversee "education and research funding" and "otherwise promote improvement in the standards of motor vehicle repair work". The Motor Vehicle Repair Industry Council has operated successfully for the past 20 years. It has always been mindful of its role and its obligations to consumers. Indeed, its very function is to assist consumers and not its members. Whilst the Opposition will not oppose this bill, it is vitally important to the harmonious operation of the council that the people who are appointed to it truly have expertise appropriate to the matters I raised earlier and are not appointed simply to appease the former Minister's stated desire to have more women on the council and/or to form some form of consumer faction that may hinder the good operations of the council.

Need I remind the Minister of what happened with the NRMA, which has become totally factionalised in recent years to the detriment I believe of its members? In the case of the Motor Vehicle Repair Industry Council we should replace the word "members" with the word "consumers". I said at the outset that I was dealing with these matters seriatim, but I note that I dealt with matters pertaining to the next matter, which is the Property, Stock and Business Agents Amendment (Penalty Notices) Bill, in my global reference to our opposition to the reintroduction of penalty notices.

I turn now to the Residential Tenancies Amendment Bill, which deals with matters pertaining to user charges for the supply of utilities between landlords and tenants. First I note that changes were approved by Cabinet in October 1997 and an exposure draft bill was prepared for public comment in March 1998. However, the exposure draft bill was introduced in the Legislative Assembly without any comment or the concurrence of stakeholders, in particular, the Residential Tenancies Consultative Committee. I note that this aspect is not to proceed at this time because of further uncertainty arising out of the recent case of *R. and J. Sunseeker Pty Ltd v Birch and Others*, which is about to go to appeal.

Without breaching the sub judice rule, there have been two recent cases in the Supreme Court concerning these matters—one handed down in April 1998 and one handed down in May 1998; both of which are at odds with each other. Although the Government has indicated that it will withdraw that



part of the bill that refers to utility charges, that will occur in Committee. I will make some comments on the matter of user payments for utilities. This matter, which has beleaguered the residential industry for many years, simply must be resolved. There are ways of resolving it if the Government has the will to do so. It is fair and equitable—as is said in the judgment of His Honour Justice Bell—for tenants to pay their fair share. Justice Bell said at page 6 of his judgment in *R. and J. Sunseeker Pty Ltd v Birch and Others*:

I am not convinced that the outcome that I have already pointed to is the fairest possible outcome. Indeed I think it can be desirable as especially between the tenants, that each pays for his own consumption but given the somewhat imprecise drafting of the legislation, I think that it is the result called for as a matter of construction. If a different result is wished then in my view the regulations would require amendment.

We must rectify the cloudiness in this matter and determine what is an official or approved meter. Generally, landlords genuinely want to act fairly and reasonably and tenants expect to pay for the utilities that they consume. Under present regulations, however, that is open to abuse by some landlords, as has been evidenced by matters that have previously ended up in court. We need certainty, not only for landlords but also for tenants. It is the coalition's intention when it comes into office in 1999 to resolve this matter if this Government has not done so by the end of its tenure. This situation cannot be allowed to continue; that uncertainty must be cleared up. There must be clarity as to the responsibilities and costs between landlords and tenants.

There are real concerns that, in view of recent court cases—again I respect the sub-judice rule—retrospective action may be available to tenants in relation to water usage charges from 1989. This legislation, or any other legislation that the Government introduces in lieu of it, must clarify that aspect. The Opposition does not object to the provision within the Residential Tenancies Amendment Bill for tenants to terminate tenancies on the grounds of hardship—a right that landlords presently have. However, it shares the concerns of the Real Estate Institute which wrote to me on 30 April stating:

While the Institute agrees in principle with the proposed amendments in relation to Section 69A(2)(b) dealing with termination of a tenancy agreement by tenants on hardship grounds, clarification is needed as to what costs are to be included in any order that the tenant paid to the landlord compensation for the landlord's loss of the tenancy. For instance does it include re-letting fees, advertising etc? Perhaps this can be addressed in the Parliamentary debate if it is unable to be addressed as an amendment to the Bill.

I raised this matter with the current Minister's staff and with departmental officers who have advised me that, as part of the second reading process, those matters and other matters, including advertising and reletting fees and other fees, will be set out for consideration. The Government must give a clear direction as to what compensation is appropriate so that when and if these matters arrive at any tribunal there is a clear indication upon which the tribunal can make its decisions. Equally, industry must have a clear indication as to what compensation it can expect in the event of a tenancy being terminated by a tenant on hardship grounds. I understand that the Government will be moving amendments to require mitigation in relation to any compensation payable. The Opposition will not oppose those amendments. Industry people have said to me that, in reality, tenants who sever a tenancy on hardship provisions may well be worse off financially than if they merely abandoned a tenancy under their existing rights. For example, the Manufactured Housing Industry noted in a letter to me dated 11 May:

The tenant will in the first instance have to apply to the Tribunal for an order. This will insert a statutory time delay that the tenants do not have under the existing legislation. For example under the existing legislation a tenant may abandon the premises. From the date of abandonment the landlord must minimise any loss by taking action to get another tenant. Under this proposal a tenant would have to wait until an order of the Tribunal was made before terminating the agreement, adding a possible 4 to 5 weeks extra rent to the tenants liability.

That is an observation that should be taken into account, particularly with the mitigation clause the Government wishes to preserve. Finally, the Residential Tenancies Amendment Bill is a further bill that returns to penalty notices, and my earlier comments in that regard apply. Perhaps at this point I should read onto the record, specifically in relation to the Residential Tenancies Amendment Bill, the comments made by the President of the Caravan Camping and Touring and Manufactured Housing Industry Association of New South Wales, Norton Whitmont, to the director of the policy division of the Department of Fair Trading, Mr John Schmidt, a copy of which was given to me by Mr Whitmont and discussed with Mr Schmidt. Mr Whitmont stated:

It is accepted that penalty notices apply in a range of consumer protection areas. However it is our view that it is inappropriate for penalty notices to be applied in tenancy relationships. The focus should be on supporting the continuation of the relationship between landlord and tenant. The intervention of a provision to allow for a capricious action of an investigator issuing penalty notices under the Residential Tenancies Act 1987 would impose on the landlord and tenant relationship.

That sets out, probably more succinctly, my overall concerns in regard to penalty notices. Finally, I refer to the Retirement Villages Amendment Bill. The Opposition does not oppose that part of the bill that refers to the continuation of rights of retired persons who occupy residential premises in a complex that was a retirement village when they entered their residents' contract but which is now predominantly occupied by persons who are not retired. Nor does it necessarily oppose the resolution of budget impasses. But it will seek some amendments in this bill. The first amendment the Opposition will move will make it mandatory for the Residential Tenancies Tribunal, when being brought into budget impasses, to consider the contractual obligations of the administering authority to provide services and facilities.

The Government's proposed amendment to section 14A states that the tribunal "may" have regard to contractual obligations, et cetera. It is felt that the very essence of the budget is founded on the contracts, and the effect of the tribunal having a discretionary power to look at a contract may mean that it could make decisions at odds with the contract and may effectively break a contract that has been legally founded between the parties. I am sure it is neither the intention nor the obligation of the tribunal to do so, but that could be the end result if the tribunal does not look at the contractual obligations overall. As such, the Opposition will move an amendment that that aspect be mandatory and also that the tribunal "must" as against "may" look at the matters contained in section 14A(3)(g), which states that it may look at the expenses incurred in operating the village in the current and previous years when considering budget impasses. The Opposition believes that should be mandatory as well, as it may well go to the cause of the budget impasse.

Departmental officers have informed me that the Parliamentary Counsel believes that under section 31 of the Retirement Villages Act the tribunal cannot make decisions contrary to the contract. However, the Opposition would submit that that stands separate and, if that be the case, the proposed section 14A would be at odds with section 31 if it did not mandate that the tribunal must consider the contractual obligations. Indeed, as the Government's amendment makes it discretionary upon the tribunal not to consider the contractual obligations, it may well come to a decision that may be at odds with section 31, which purportedly states that it is mandatory to not interfere with contracts. For the sake of consistency in the Act, it should be mandatory in section 14A for the tribunal to consider the contractual obligations.

Equally in relation to expenses, it stands that the budget would be predicated upon expenses, and the option to not consider the expenses should not be available. It should be mandatory that expenses of previous years and the current year be considered. Therefore the Opposition will move an amendment that matters pertaining to contractual obligations and the expenses of operating the retirement home must be considered when the Residential Tenancies Tribunal is considering any budget impasse. Finally in relation to the Retirement Villages Amendment Bill, the industry is concerned about the need for compulsory conciliation at section 14A(4)(a) to stipulate that section 109 of the Residential Tenancies Act should apply to that section. I am told by departmental officers that the Parliamentary Counsel is of the opinion that that obligation is implicit in section 14A(4)(a). I have correspondence from the Parliamentary Counsel, which states:

We confirm that it is unnecessary to refer to section 109 of the Residential Tenancies Act 1987 in proposed section 14A of the Retirement Villages Act 1989.

Section 83(1) of the RT Act (Residential Act) states that the Tribunal has such jurisdiction and functions as are conferred on it by or under the RT Act or any other Act. Section 85(1)(a) states that the Tribunal may in any proceedings before it make an order for which an application may be made by any person (whether under the RT Act or any other Act) to the Tribunal. In other words, the Tribunal's obligation to conciliate under section 109 of the RT Act applies in relation to applications arising under proposed section 14A of the Retirement Villages Act. There is no need therefore to repeat the obligation to conciliate in the proposed section 14A of the RV Act.

As I understand it, a request is needed for cognate bills to be dealt with separately in the Committee of the whole. The Opposition will make that request so that its amendments can be dealt with.

**Debate adjourned on motion by Mr Moss.**

## **MINES INSPECTION AMENDMENT BILL**

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

### **Second Reading**

**Mr MARTIN** (Port Stephens—Minister for Mineral Resources, and Minister for Fisheries) [9.37 p.m.]: I move:

That this bill be now read a second time.

The Mines Inspection Act 1901 and the general rule made under it provide the ground rules for the safe operation of mines, other than coal and shale mines, in New South Wales. The International Labour Organisation—ILO—recently published Convention

176 on safety and health in mines. As part of this Government's commitment to the highest standards of safety in mines in New South Wales, the Mines Inspection Act and the general rule were reviewed to ensure compliance with the ILO standard. The Mines Inspection Amendment Bill amends the Mines Inspection Act 1901 to bring it into line with the ILO convention. A wide-ranging consultation took place during the drafting process. The Mines Inspection Act is also to be amended so that it reflects current standards.

The Act presently covers all quarries, along with certain processing plants associated with quarries, such as ready-mix concrete and asphalt plants. Salient features of the bill are that the definitions of "mine" and "treatment" have been widened to bring these sites under the jurisdiction of the mines inspectorate and that mines inspectors are given jurisdiction over certain events that occur outside mines if they are caused by mining operations. This will eliminate any uncertainty as to whether these matters are the responsibility of WorkCover or the mines inspectorate. For example, flying rock propelled out of a mining area by blasting will become part of the inspectorate's jurisdiction. Previously it was unclear whether such damage was a matter for WorkCover Authority, the mines inspectorate or some other authority. WorkCover supports the new definitions.

Currently an increasing number of people who do not come from a traditional engineering background are involved in the management of mines. A manager of a mine either has to have formal qualifications acceptable to a board of examiners or must hold a permit to manage an operation employing no more than 20 people. The Act does not presently allow for people who may wish to manage mines but do not fit the current criteria. Thus an artificial barrier has been created. It is therefore proposed to create a class of mine managers, called general managers, who will have the responsibility for daily supervision, control and management at their mines. General managers need not have mining qualifications.

However, if they do not and the mine employs more than 20 people, they must appoint a person with those qualifications to supervise production in their mines. A mine owner wishing to appoint a general manager who does not have mining qualifications must first obtain approval from the Chief Inspector of Mines. Failure to obtain that approval will be an offence, punishable by a fine of \$2,200, plus \$55 per day whilst the offence continues. It should be noted in relation to opal mines in which no person other than the owner of

the mine is employed that an exemption previously granted in 1986 will continue to operate in relation to new section 5 of the amending bill. Some operations, because of their size or the nature of the material being mined, may not need the services of a fully qualified production manager. In such cases, the chief inspector will have the power to grant a permit if the standards in proposed section 5C are met.

Those managers who hold formal qualifications—called certificates of competency—will need to keep abreast of technological and other changes in their profession. For this reason, it is proposed to insert a new division 2A into the Act, which will put an obligation on certificated managers to maintain standards throughout their mining careers. Further provisions will oblige certificate holders to keep records of the work done to maintain their standards. The chief inspector will be given power to examine those records and issue directions to correct any shortfalls. A new section 18C will cover situations in which certificate holders return to jobs in mine production after periods of employment outside.

Before resuming as a production manager, the certificate holder must get written permission from the Chief Inspector of Mines. The chief inspector has the power to seek evidence of ongoing training before giving consent, and will have power to direct remedial training, if required. Failure to comply with this section is an offence. Rules will set out the subjects in which certificate holders must maintain their skills and competencies. The chief inspector will also issue guidelines from time to time. The chief inspector will be given power to grant exemptions to the proposed obligations, but only in exceptional circumstances. The intent of the new division 2A in part 2 has been widely discussed with industry and has been welcomed by mine managers. I am pleased to advise the House that many of the mine managers are already adopting this practice.

The use of explosives in mining is an area in which safe operation is crucial. A new division 2B in part 2 of the Act will make it an offence for a person to undertake blasting operations at a mine unless that person holds a shotfirer's certificate of competency granted by the Minister or a shotfirer's permit issued by an inspector of mines. A certificate of competency will only be granted to an applicant who has satisfactorily passed an examination set by the proposed shotfirer's board of examiners. Smaller operations will be served by allowing inspectors to grant permits to suitably experienced people under proposed section 18J. Shotfirers' permits will be site-specific and subject to conditions that the inspector

believes appropriate. Shotfirers will also be subject to the same disciplinary procedures as managers and engine drivers. In this respect a consequential amendment is proposed to section 19 to provide for inquiries into the conduct of those persons.

Accurate information and statistics on accidents and dangerous occurrences at mines are a necessary part of monitoring the effectiveness of a safe mining policy. This was recognised in article 5.2(d) of the International Labour Organisation Convention. An amendment to section 40 of the Act requires mines inspectors to give the chief inspector a report of the accidents and occurrences that they investigate. Such information will be published each year in the annual report of the Department of Mineral Resources. The report will also include statistics relating to the incidence of lung diseases contracted in non-coalmines. Complete and accurate plans of mine workings contribute to the safety of people employed in mines.

In certain cases section 41(1) of the Act currently requires a plan of the workings to be prepared once a mine has begun operations and then updated periodically. Article 5.5 of the ILO Convention requires appropriate plans to be prepared before the start of operations, and to be revised to show any significant modifications to the workings that occur once operations have commenced. Section 41(1) of the Act is being amended to adopt the wording of the ILO Convention. The Carr Government is committed to careful risk management. Government inspectors have been very active in recent years, promoting risk management and assessment techniques. The need to manage risk is also highlighted in article 6 of the ILO Convention.

In this regard, a new division 3 is to be inserted in part 4 of the Act. The new division will oblige general managers of all non-coalmines to identify and assess any risks associated with the safety and health of persons employed at their mines. Wherever practicable, the risk should be eliminated. If that is not possible, the general manager must minimise the risk to the fullest extent practicable by measures that include the design of safe work systems. Failure to abide by the new provision will be an offence. The provision as drafted allows a reasonable lead time—namely, up to two years—so that operators who currently do not have a risk management system in place will be able to introduce one.

The provisions for notification of accidents and diseases to inspectors have also been redrafted to clarify the types of accidents for which notice must

be given and the period in which notice must be given. The revised sections require certain lung diseases to be notified, as well as serious accidents and dangerous incidents. A "serious accident" is one that causes death or serious injury. "Serious injury" is defined in amendments to section 4. "Dangerous incidents" are defined in section 4 as incidents that have the potential to cause serious injury. A new section 48 will restate existing provisions of the Act that require serious accidents and dangerous incidents to be investigated, which complies with article 10(d) of the ILO Convention.

Various other amendments will repeal outdated provisions, some of which have been superseded by the Occupational Health and Safety Act 1983. The bill also contains a number of amendments to the Mines Inspection General Rule 1994. These amendments incorporate requirements of the ILO Convention. Clause 7 will be amended to require the general manager of a mine to provide an effective communications system so that immediate communication is available with persons who are employed at the mine. This satisfies the requirements of article 7(a) of the convention. Another amendment to clause 7 will require the general manager to provide two separate exits from each underground working place, wherever it is practicable.

A second means of exiting allows underground workers to escape if one exit is obstructed. The same principle is long established in coalmines and is a requirement of article 7(d) of the ILO Convention. Another requirement, familiar to coalminers, is for the general manager to introduce a system allowing them—and the production manager, if there is one—to be aware of the names of workers who are underground at any time, as well as their likely location. An amendment to clause 7, incorporating requirements of article 10(c) of the convention, will introduce this practice to non-coalmines. A new part 7A will incorporate article 5.4(d) of the convention in respect of the safe storage, transportation and disposal of waste produced at the mine. The definition of "emergency" in clause 55 of the general rule will be amended to include "foreseeable industrial or natural disasters", as required by the convention.

Article 8 of the convention requires general managers of mines to prepare emergency response plans. An amendment to clause 56 will give effect to this requirement, while at the same time co-ordinating the mine's own emergency plans with those of the emergency services in its locality. Thus, if there is an accident or dangerous event at a mine, provisions will be in place to deal with the

emergency efficiently and safely. Finally, schedule 3 to the bill makes a small consequential amendment to the Defamation Act 1974, with respect to reports of investigations of serious accidents or dangerous incidents. Section 48 of the Act requires the Minister to direct an inspector to provide a report, which the Minister may make public. The proposed amendment will make such a report subject to absolute privilege when published. This will have the desirable effect of allowing inspectors to give frank and open opinions of the causes of serious accidents or dangerous incidents without fear of reprisals in the form of defamation actions. I commend the bill to the House.

**Debate adjourned on motion by Mr Beck.**

## **PERIODIC DETENTION OF PRISONERS AMENDMENT BILL**

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

### **Second Reading**

**Mr DEBUS** (Blue Mountains—Minister for Energy, Minister for Tourism, Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [9.49 p.m.]: I move:

That this bill be now read a second time.

The periodic detention scheme commenced in 1971. Since the time the legislation established the scheme it has been amended, both by this Government and by previous governments, to refine and tighten the scheme. The Periodic Detention of Prisoners Amendment Act 1996 made a series of amendments which, when added together, considerably tightened the scheme. For example, the Act trebled penalties for non-attendance and enabled more rigorous scrutiny of dubious claims for leave on medical grounds. However, non-attendance by detainees remains a concern.

If the scheme is to have legitimacy as an alternative to full-time custody it is vital that penalties for non-attendance are swiftly enforced. The bill seeks to improve the periodic detention scheme in three major ways. First, it seeks to strengthen the criteria against which those facing sentence are assessed in terms of suitability for periodic detention. The Department of Corrective Services has found that some offenders presently entering the periodic detention scheme are disruptive or unsuitable for work; do not possess the self-discipline for periodic detention attendance; or have

personal circumstances that make attendance impractical.

Proposed section 5(7) provides for the making of regulations to prescribe factors that must be taken into account when a probation and parole officer prepares a report to assist the court in deciding whether an offender is suitable for periodic detention, as opposed to various community-based alternatives or indeed full-time custody. At present there is no statutory guidance for a probation and parole officer when preparing such a report. I anticipate that the following factors will be prescribed in the regulations: whether the offender has a major alcohol or drug problem; whether the offender has a major psychiatric problem; whether the offender has a medical problem such that he or she would be unable to attend periodic detention; whether the nature of the offender's employment or other personal circumstances would make regular attendance at periodic detention impractical, and whether the offender has a serious criminal record.

The prescribed suitability report will be underpinned by a new requirement, in section 5(1B), that an offender must sign an undertaking, prior to sentence, to comply with the requirements of periodic detention. The form of the undertaking will also be prescribed in the regulation. Requiring an offender to sign an undertaking to comply with the requirements of periodic detention will ensure that the offender is not later able to assert that he or she did not know what was involved, and use that as a reason to seek leave of absence. The second way in which the bill will improve the periodic detention scheme is to remove any doubt that a court must sentence a person to imprisonment before it considers whether or not to make a periodic detention order.

The bill makes it plain that those who abuse the relative leniency of a sentence to be served by way of periodic detention face full-time imprisonment. The periodic detention scheme was originally introduced to be a real alternative to full-time imprisonment. This intention is currently reflected in section 5(1) of the Act, which provides that when a person is convicted of an offence and sentenced upon that conviction to imprisonment for a term of not less than three months and not more than three years, the court may order that the person's sentence be served by way of periodic detention.

The intention of section 5(1) is that the sentence of imprisonment should be determined first, and only then should consideration be given to

whether the person serves the sentence in full-time imprisonment or by way of periodic detention. Despite the wording of section 5(1), interpretation of the section by the courts has been variable, thereby reducing the diversionary effect of periodic detention. The bill repeals section 5(1) and inserts new sections, including new section 5(1A), which requires a court to set a fixed term or a minimum and an additional term before making a periodic detention order. Offenders sentenced to periodic detention will therefore be in no doubt, from the outset, as to the term they face in full-time custody if they fail to attend periodic detention.

The third way in which the bill will improve the periodic detention scheme is to overcome the delays that presently occur once breach action against a detainee has been commenced by the Department of Corrective Services. The bill will overcome these delays by removing the cancellation process from the courts and placing it with the Parole Board. The Parole Board is already responsible for revoking parole orders and home detention orders. The board has the power to revoke a parole order under section 34 of the Sentencing Act 1989 and to revoke a home detention order under section 16 of the Home Detention Act 1996.

On the basis of the time taken for the Parole Board to revoke a parole order or a home detention order the Department of Corrective Services anticipates that the board would take about 10 days from the date of application to cancel a routine periodic detention order, and would have the capacity to process urgent applications much more quickly. When considering whether to exercise its powers to revoke a parole order or a home detention order, the Parole Board follows three basic steps. First, the board considers a submission from the Probation and Parole Service recommending revocation of the order.

Second, if the board accepts the recommendation, the board revokes the order and issues a warrant for the arrest of the offender. Finally, when the offender is returned to custody, the board reconsiders its earlier decision to revoke the order. At this hearing the offender may make submissions to the board. The bill requires that the board follow the same basic procedure for the cancellation of a periodic detention order. The only change will be that the recommendation for cancellation will be initiated by the Periodic Detention Centres Administration Unit rather than by the Probation and Parole Service. When the Parole Board cancels a periodic detention order, the remainder of the fixed term or the minimum term

initially set by the court will be served in full-time imprisonment.

I now wish to outline other changes contained in the bill. New section 5(1) enables an order for periodic detention to be made in relation to a term of imprisonment of less than three months. An offender receiving a sentence of less than three months is currently, in most cases, excluded from periodic detention, whereas an offender receiving a longer sentence, of up to three years, may be considered for periodic detention.

Unlike periodic detention, home detention does not have a minimum sentence for eligibility. An offender receiving a sentence of less than three months may be given home detention. The new provision restores consistency between these sentencing options. New section 20(2A) requires that a formal application for leave of absence be made within seven days from the commencement of the detention period in respect of which the leave is sought. Detainees are already required to advise a centre if they are unable to attend due to ill health; this provision ensures that the formal application for leave in respect of such an absence must be promptly lodged.

Instances have occurred when a periodic detainee has not formally applied for sick or other leave until the matter is actually before the court—many months after the actual absence. The requirement to make formal applications promptly will minimise unnecessary administrative action to cancel a periodic detention order for absences for which leave would have been granted. An amendment to section 21AA(3) provides for time missed as a result of reporting late to be aggregated and served as part of an additional detention period. Periodic detention centres are generally only staffed during normal periodic detention periods.

By aggregating make-up time, and requiring a detainee to attend for part of an additional detention period, the department will avoid the possibility of having to direct officers to work overtime to supervise detainees making up time outside normal hours. New section 21(4) provides that a periodic detainee is taken to have served a detention period if he or she was an inmate of a correctional centre during that period. At present, it is not always clear that time served in full-time imprisonment is counted towards completion of a periodic detention order.

New section 25(6) provides that the Parole Board may replace a cancelled periodic detention

order with a home detention order. The circumstances of an offender may change during the serving of a sentence and while periodic detention may no longer be suitable, home detention may be. Home detention, like periodic detention, is an alternative to full-time imprisonment. I commend the bill to the House.

**Debate adjourned on motion by Mr Cochran.**

**ENERGY SERVICES CORPORATIONS  
AMENDMENT (TRANSGRID  
CORPORATISATION) BILL**

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

**Second Reading**

**Mr DEBUS** (Blue Mountains—Minister for Energy, Minister for Tourism, Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [10.00 p.m.]: I move:

That this bill be now read a second time.

This bill deals with the corporatisation of the Electricity Transmission Authority as a statutory State-owned corporation under the State Owned Corporations Act 1989. The authority will be corporatised under the corporate name TransGrid. This initiative is a further significant milestone for New South Wales in reforming the electricity industry and satisfying the Government's broader national competition policy reform obligations. The Electricity Transmission Authority was established on 1 February 1995 pursuant to the Electricity Transmission Authority Act 1994.

Prior to this date, electricity transmission was the responsibility of the Electricity Commission of New South Wales, which at that time traded as Pacific Power. The Electricity Transmission Authority is currently the principal provider of high voltage electricity transmission services in New South Wales managing 74 substations and switching stations and approximately 11,500 kilometres of lines. This transmission network interconnects with the transmission network operated by the Snowy Mountains Hydro-electric Authority, Victoria and South Australia and forms a major component of one of the most extensive transmission networks in the world.

In March 1996, the Government initiated a major reform by corporatising six energy distributors and two new electricity generators as energy

services corporations under the Energy Services Corporations Act. These entities were established with the objective of operating as independent, commercially viable organisations capable of competing in the State and national electricity markets. Since this reform process was commenced, the energy services corporations have achieved substantial efficiency gains from which the whole State has benefited. As a result of these reforms, New South Wales households now enjoy the cheapest power of any Australian State.

An average household in New South Wales pays more than \$100 per year less for electricity than a similar household in Victoria, and a local small business pays between 25 per cent and 40 per cent less than its Victorian counterparts—an average saving of about \$3,400 per year. The net effect of the Government's reform process is that by the turn of the century New South Wales consumers will, on average, enjoy electricity price reductions of more than 20 per cent. Meanwhile, on all measures, the standard of service to customers and the reliability of supply have improved considerably.

Another important milestone in the reform process was the establishment of the Sustainable Energy Development Authority with a mandate to promote the adoption of economically efficient sustainable energy technology. The Sustainable Energy Development Authority has already achieved a reduction in emissions of over half a million tonnes annually and put in place programs which will deliver further savings at an accelerated rate. A critical element of the framework introduced in 1996 was the establishment of an effective wholesale market for electricity.

The Electricity Supply Act 1995 enabled the establishment of this interim State electricity market, pending the creation of the national electricity market. Under the Electricity Supply Act, TransGrid was appointed as the New South Wales market and system operator. In this role TransGrid has been responsible for establishing market rules and procedures, maintaining system security and operating the market. TransGrid has performed this role with distinction and has succeeded in opening up the wholesale electricity market to new participants.

This contribution to the State, in addition to the management of transmission infrastructure, has been the foundation on which electricity sector reform has been able to progress. Since late last year, following passage of the Electricity Legislation Amendment (Wholesale Electricity Market) Act, TransGrid has taken New South Wales a step closer

to integration with the national electricity market by successfully establishing competitive trading arrangements between New South Wales and Victoria. This is an important step towards the establishment of a fully integrated national electricity market, which is scheduled to commence later this year. However, upon commencement of the national electricity market, TransGrid will cease to perform the role of market and system operator.

In the national electricity market this role will be performed by the National Electricity Market Management Company—NEMMCO. TransGrid may provide certain services to NEMMCO under contract. The national electricity market will be facilitated by legislation in all participating jurisdictions. In New South Wales that legislation is the National Electricity (New South Wales) Act 1997, which was passed by the Parliament in May last year. That Act applies the lead legislation passed by the South Australian Parliament in 1996 known as the National Electricity (South Australia) Act. That lead legislation contains the national electricity law in a schedule and provides the legislative basis for the national electricity code, which underpins the operation of the national electricity market.

The code is a detailed and comprehensive regime which contains the rules for operation of the electricity trading market by NEMMCO; NEMMCO's responsibilities in relation to the security of the interconnected power system; connection and access arrangement to networks and network planning; pricing for access to and use of components of the electricity network; metering; and administration of the code through enforcement, dispute resolution and a code change mechanism by the national electricity code administrator—NECA. In addition to providing for NEMMCO to take over the role of market and system operator, the code makes other changes which have a profound impact on TransGrid as well as other network service providers.

Under the code, TransGrid will be a transmission network service provider. Its revenue from operation of its transmission network will continue to be regulated as a monopoly provider of network services. Further, the code will effectively end TransGrid's role in controlling all new transmission investment. In its place are transparent and consultative processes designed to provide rigour and discipline on all network service providers so that the necessary capital investments are provided at least cost to consumers. Key elements of the new framework are a number of protocols established by the code.

The most important of these include the removal of restrictions on entry to new transmission

network service providers; the negotiation of connection agreements between a transmission network service provider and its customers; the availability of all technical data on the transmission network assets and operations; the publication of an annual planning review by transmission network providers, which is subject to consumer review and objection; the annual publication by NEMMCO of a Statement of Opportunities for Inter-regional Network Investments that can be used by any current market participant or a new entrant to frame competitive investment solutions; and competitive tendering by NEMMCO for ancillary services.

In short, upon commencement of the national electricity market, TransGrid's regulatory responsibilities will be eliminated; it will have to operate in a commercial manner and compete for provision of new network infrastructure. It is against this background that TransGrid is to be corporatised. I now turn to the detail of the bill and its major features. The Electricity Transmission Authority will be dissolved and corporatised as an energy transmission operator under the Energy Services Corporations Act. This will bring TransGrid within the same structural and reporting framework as the two existing classes of energy services corporations—electricity generators and energy distributors.

Within the bill are clear statements of the principal objectives and functions of an energy transmission operator. These provisions are designed to recognise the important and unique nature of TransGrid's operations in New South Wales, while at the same time being consistent with the broader objectives set by the Government for all energy services corporations. The corporatised TransGrid will have also the same corporate governance arrangements as all other energy services corporations. These arrangements have been designed to ensure clear and effective communication between the shareholders and the board of directors, to facilitate competitive neutrality and to ensure that the board and management of TransGrid have sufficient autonomy to operate effectively in a competitive environment and pursue the objectives outlined in this bill.

The shares in TransGrid will be held by the Treasurer and one other eligible Minister on behalf of the State. These shareholding Ministers will have rights commensurate to those of shareholders in a corporations law company. The relationship between the board of directors and the shareholders will focus on the future success of TransGrid as a network service provider in a competitive national electricity market. It is presently intended that TransGrid will be corporatised following commencement of the national electricity market, which is anticipated to occur later this year.



However, the bill has been drafted to give the Government the option of corporatising TransGrid in advance of the commencement of the national electricity market. This will enable the Government to corporatise TransGrid early if the Government determines that TransGrid would benefit from being given the opportunity to prepare for transition to a fully competitive national electricity market as a corporatised entity. Consistent with the corporatisation objectives of separating operational and regulatory functions, TransGrid will not have a broader regulatory role following corporatisation, even if it is corporatised before commencement of the national electricity market.

If TransGrid is corporatised prior to commencement of the national electricity market, the bill establishes interim arrangements for the seamless transfer of the New South Wales market and system operator function to another eligible entity. This will ensure the continued safe and efficient operation of the State electricity market until commencement of the national electricity market whether or not TransGrid is corporatised prior to this date. In conclusion, I reiterate the Government's ongoing commitment to electricity reform, of which this bill forms another important element. I commend the bill to the House.

**Debate adjourned on motion by Mr Beck.**

## **BUSINESS OF THE HOUSE**

### **Extension of Sitting**

#### **Motion by Mr Debus agreed to:**

That the sitting be extended beyond 10.30 p.m.

## **BILLS RETURNED**

The following bills were returned from the Legislative Council without amendment:

Fire Services Joint Standing Committee Bill  
Fire Services Legislation Amendment Bill  
Police Integrity Commission Amendment (Records) Bill

## **LEGAL PROFESSION AMENDMENT (COSTS ASSESSMENT) BILL**

### **Bill introduced and read a first time.**

#### **Second Reading**

**Mr DEBUS** (Blue Mountains—Minister for Energy, Minister for Tourism, Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Premier on the Arts), on behalf of Mr Whelan [10.13 p.m.]: I move:

That this bill be now read a second time.

The principal purpose of the Legal Profession Amendment (Costs Assessment) Bill is to amend part 11 of the Legal Profession Act 1987 to: rationalise the financial administration of the costs assessment scheme; introduce a requirement that costs assessors provide limited reasons for their determinations; and provide a mechanism for a review of cost assessment determinations. Division 6 of part 11 of the Legal Profession Act establishes a scheme for the assessment of bills of costs issued by legal practitioners. The Legal Profession Act provides that an application may be made by a client to the proper officer of the Supreme Court for the assessment of whole or part of a legal practitioner's bill of costs. Applications may also be made for cost assessment by a party who is required to pay party-party costs as a result of a court order. The Bar Council, Law Society Council or Legal Services Commissioner may also refer a matter for the purposes of investigating a complaint.

A costs assessor may, having regard to various criteria set out in the Act, issue a determination either confirming the bill of costs or substituting the amount of the costs with an amount that, in his or her opinion, is considered to be fair and reasonable. In addition to issuing a determination, the costs assessor may issue a certificate setting out the costs incurred by the assessor or the proper officer in undertaking an assessment. The Act provides that application fees and payments made in respect of the assessor's costs in conducting the assessment are received by the proper officer of the Supreme Court. These moneys are then paid to the credit of the statutory interest account. Money paid by way of remunerating cost assessors is recouped from the statutory interest account. However, the Act does not currently make independent provision for the administrative costs of the court to be recovered from parties to costs assessments or from the statutory interest account. This arrangement has posed practical difficulties in respect of the financial administration of the scheme.

By way of addressing these problems it is proposed to amend the Act to provide for the scheme to be funded on a cost-recovery basis and to provide for administrative costs associated with the scheme to be recouped. Until recently, established case law provided that there was no duty upon costs assessors to provide reasons for decisions. However, in *Kennedy Miller Television v Lancken and Anor*, which was handed down on 1 August last year, Mr Justice Sperling held that cost assessors are required to provide reasons for costs assessment determinations upon request. Subsequent judgments have not supported the decision in the Kennedy Miller case, which has recently been the subject of an appeal. The judgment on appeal has been reserved and uncertainty remains amongst cost

assessors as to their obligation under the Act to provide reasons for their determinations.

The proposed legislation is intended to clarify the responsibilities of costs assessors in this respect and to bring assessors into line with the government policy generally, whereby reasons should be provided for administrative decisions. The proposed amendments also provide for a review of determinations by costs assessors. Parties aggrieved by a costs assessment determination may, within 28 days of receiving the original certificate of determination, apply to the proper officer for a review of the determination. The review process, which is intended to be relatively informal in nature, will be carried out by two assessors of appropriate experience and expertise and be conducted along similar lines to that undertaken in the original assessment process.

The review panel will be able to vary the original assessment and will also be required to provide a short statement of reasons for their decisions. The proposed bill includes a number of other changes which are designed to improve the operation of the scheme. In addition, the bill provides for a regulation to be made to set the fair and reasonable costs for handling motor accidents proceedings. A review of legal costs in this area is currently being undertaken by the Justice Research Centre, at the instigation of the Legislative Council's law and justice committee. The regulation-making power will enable concerns regarding legal costs to be addressed, if such concerns are borne out by the review. I commend the bill to the House.

**Debate adjourned on motion by Mr Beck.**

#### **JOINT SELECT COMMITTEE ON VICTIMS COMPENSATION**

**Motion, by leave, by Mr Debus agreed to:**

- (1) That the terms of reference of the Joint Select Committee on Victims Compensation be amended by omitting the date "29 May 1998" from paragraph (6) and inserting instead the date "30 September 1998".
- (2) That a message be sent to the Legislative Council acquainting it of this resolution and requesting the Council to pass a similar resolution.

#### **MARKETING OF PRIMARY PRODUCTS (MURRAY VALLEY WINE GRAPE INDUSTRY) SPECIAL PROVISIONS BILL**

**Second Reading**

**Debate resumed from 29 April.**

**Mr SMALL** (Murray) [10.19 p.m.]: On behalf of the coalition I support the Marketing of Primary

Products (Murray Valley Wine Grape Industry) Special Provisions Bill. I must say that we have been waiting for a long time for it to come before the House and it will be good to have it passed. I note that the Minister for Agriculture is at the table. The objects of this bill are:

- (a) to extend the period of operation of the Murray Valley (New South Wales) Wine Grape Industry Marketing Order for a further 12 months, to 2 June 1999, and
- (b) to extend the term of office of the members of the Murray Valley (New South Wales) Wine Grape Industry Development Committee to that date, and
- (c) to cure a minor omission in the published version of a proclamation relating to the initial constitution of the Development Committee.

The purpose of the Development Committee, as expressed in the Marketing Order, is to promote the best interests of the Murray Valley wine grape industry through market research and the development of improved vineyard management practises. The Development Committee is empowered by the Marketing Order to impose charges on wine grape growers for its services.

I have been in touch with the manager of the Murray Valley Wine Grape Board, Mr Hayden Farnsworth, who has identified the importance of the amendments in this bill. The extension of time is necessary because of the national competition policy review before another poll take places in 1999. Growth in the wine grape industry is enormous. One has only to look at my electorate of Murray, areas in Victoria, South Australia and almost anywhere in New South Wales where water supply, climatic conditions and soil are suitable for winegrowing to see that the wine grape industry is remarkable.

I do not believe that any other industry has grown as much as the wine grape industry has grown recently. Many winegrowers are growing wine grapes rather than fresh grapes for eating purely because of mechanical harvesting and the fact that wine grapes can still be utilised if they are damaged. Winegrowers are conscious that fresh grapes for human consumption must be covered a couple of months prior to harvest to protect them from wind damage, storm damage, hail or whatever, and that they must be hand picked carefully and well packaged to preserve their quality.

That is not to say that only a few growers are producing fresh grapes for human consumption; that is not the case. However, many people are attracted to the wine grape industry. The increase in exports of Australian wine products has been remarkable. Last year the Staysafe committee found during its visit to England, Germany, France and Barcelona in Spain that the Australian wine industry is talked

about in terms of its product being in the highest bracket of good quality wines available at an affordable price. Earlier the honourable member for Cessnock mentioned to me that wine caskets are being imported from Spain. That aspect of the industry must be closely looked at. Magnificent small gift wine caskets are manufactured in Corowa in my electorate and exported around the world. The manufacturer imports timber from America, and that is a big cost factor. The export potential for Australian wines is exceptional, and exports are good for Australia's economy and for employment.

One of the greatest problems for wine grape growers in the Murray Valley catchment area is securing sufficient water. Even dry land farmers in some slopes areas are constructing catchment dams on their properties in order to use an efficient drip system to grow grapes. I pay tribute to the horticultural industry in Sunraysia and other areas in my electorate and, indeed, throughout New South Wales and in Victoria and South Australia, for moving away from furrow irrigation and lowering the watertable. The industry has reduced the water usage by 40 per cent to overcome salinity problems. Microjet irrigation has become an efficient and high-tech irrigation system for the grape and citrus industries. Irrigation is required in the Murray Valley, where the climate and soil are ideal for grape growing.

Australian wines are very popular in this country and overseas. The grape industry marketing board is located in my electorate of Murray. I am honoured to have in my electorate a thriving industry that exports good-quality products. Those involved in the wine grape industry must admire the huge improvements made to industry management in recent years. We should support important amendments in this bill which will allow the Murray Valley wine grape industry to trade during the next 12 months until the desired changes take place. For those reasons I endorse and support this bill.

**Mr PRICE** (Waratah) [10.27 p.m.]: This bill is significant as it recognises a valuable organisation to the wine grape industry. One need only look at the achievements of the board, especially the employment of an industry development officer, its publications which are widely used in the industry not only in the Murray Valley area but in other areas of the State, its sponsorship of field days and seminars which are attended by people not only in the Murray Valley but throughout the industry, and the database developed over the years which assists growers in the area with crop forecasting and other information pertinent to the industry. The Waratah electorate borders the winegrowing area of the

Hunter Valley, as does the electorate represented by the honourable member for Cessnock, so we have some affinity with the activities of the Murray winegrowers. We like to think that our product is superior but I shall leave that for the judges.

Kurri Kurri TAFE in Waratah electorate has blossomed as a wine developer and runs a number of courses in that field. It has its own winemaker, winery and vineyards and is producing a reasonable drop of red and white wine. That TAFE college uses the Murray Valley for part of its training tour of instruction, for what is done there is mirrored throughout the State. In the area where I have a small property the number of people growing eight and ten acres of grapes for bulk supply to the industry is surprising. There is definitely a shortage of supply to the industry. The honourable member for Murray mentioned the importation of Spanish wines. Although many companies in the Murray area are owned by American and French firms, there is insufficient product available to meet demand. Anything we can do generally to support wine marketing and the wine industry in this State is extremely important. I commend this bill to the House, for it will overcome a problem for the board. If this bill were not proceeded with the board would have to hold elections, which would be an unnecessary complication at this time. I am glad to support the bill. I assure the honourable member for Murray that it has the complete support of all winegrowers in New South Wales.

**Mr SLACK-SMITH** (Barwon) [10.30 p.m.]: The Opposition does not oppose the Marketing of Primary Products (Murray Valley Wine Grape Industry) Special Provisions Bill. I have a vested interest in the industry because for several generations my mother's family has been involved in grape growing and the wine industry, first in Germany and then in the Barossa Valley. However, tonight I speak purely on behalf of the consumers of some fine drops of wine from the Murray Valley. A few names that come to mind are Brown Brothers, Penfolds and Tyrells, which commenced in the Hunter Valley but which now produce wines in the Murray Valley. Because of Murray Tyrell's relationship with bullocks a long time ago, in a way I have an affinity with the Tyrells wine industry through beef and burgundy.

The Opposition supports the Murray Valley (New South Wales) Wine Grape Marketing Order 1994, the operation of which the bill seeks to extend. This will allow the grape industry to progress through market research and the development of improved management practices. Research and development are important to all

primary industries. Without that tool primary industry will quickly deteriorate. The wine industry is joining with industries such as wool, cotton, wheat, cattle breeding and beef production in research and development and is going from strength to strength. It is experimenting with new varieties of wine grapes, fertiliser rates, weed control, watering techniques and the like. The research and development of these techniques are making Australian farmers some of the best in the world.

The honourable member for Waratah and the honourable member for Murray stated that there is a shortage of quality wine grapes, and it is disappointing that Australia has to import products from overseas. Hopefully that will not continue in the next five to six years and Australia will become self-sufficient and will export fine wine to the rest of the world. Under the Marketing of Primary Products Act 1983 the marketing order cannot be extended unless certain steps are taken, such as a poll of wine grape growers that indicates that growers wish it to continue, and that is happening. The Opposition has consulted the New South Wales Farmers Association, which supports the bill, and accordingly the Opposition does not oppose it.

**Mr GLACHAN** (Albury) [10.34 p.m.]: I wish to make a few remarks about wine production in Australia and, in particular, at Tumbarumba in my electorate. A few years ago the wine industry was not exporting significant quantities of wine but it now exports \$700 million worth of wine annually and has become a significant industry. My daughter and son-in-law were living in Edinburgh while at university and when I visited them my son-in-law took me to his wine merchant, who showed me all the Australian wines he had for sale. He said that when they first moved into their flat the merchant sold mainly French wines but gradually he had introduced Australian wines and more were being bought. In fact, the stage was reached where the merchant erected a sign which stated, "Buy two bottles of Australian wine and get a bottle of French wine free". This was because once people bought Australian wines they did not want the French wine; the merchant virtually had to give it away.

Over the weekend I was in Griffith and I noticed that grapes were being planted in profusion in that part of the Murrumbidgee Irrigation Area. At Tumbarumba winegrowing has become important, with large planting areas being established. Grape growers in that area use drip irrigation and water effectively and economically. Grape growers in Tumbarumba and parts of Holbrook are concerned because they have an opportunity to break away from the traditional production of sheep and cattle

and to expand their agricultural production in wine growing, which has considerable returns per acre, but water is needed and dams must be built to give them access to that water.

Since 1995 many farmers have planted grapes and built up their grape-growing interest. They have successfully produced wines which are in high demand and considered to be of superior quality, but now access to water is being restricted dramatically. I understand the same thing is happening in the Mudgee area, and this is causing grave concern. It is hard to diversify because farmers can grow oats, but they cannot become heavily involved in grain growing and are restricted to sheep and cattle grazing. However, grape growing provides good returns on their land, labour and capital expenditure but they need access to water. I raise this matter with the Minister for Agriculture because many farmers have contacted me and expressed grave concern about their future. They are prepared to give this industry a go but they need access to water. I ask the Minister to give serious consideration to their needs. This opportunity should not be missed; it is good for the farmers and good for Australia because it will earn export dollars.

I do not want to fall foul of my colleague representing the Murray electorate but there are ways that people can save water more effectively in other irrigation areas. People in my electorate are using drip-feed irrigation, which is efficient and should be encouraged. I was disturbed recently when Department of Land and Water Conservation officers told me that their lawyers' interpretation of riverbed means that every part of the Murray Valley is part of the river and all of the water belongs to the river. This poses significant problems for farmers in my electorate and I hope the Minister will give consideration to their future.

**Mr WINDSOR** (Tamworth) [10.38 p.m.]: I speak briefly in support of the Marketing of Primary Products (Murray Valley Wine Grape Industry) Special Provisions Bill and endorse some earlier remarks on the growth of the wine grape industry and the potential for more growth. Those involved in the industry would agree that the expense involved in setting up a wine grape operation is enormous and cannot be undertaken without some security for the future.

No-one is suggesting that the government of the day put in place some surety of income. As the honourable member for Albury suggested, government has a role to play in ensuring that there is security of water in the long term. I am pleased that the Minister for Agriculture, and Minister for

Land and Water Conservation is in the Chamber because other issues pertinent to the growth of agriculture are involved, including the availability of water. Governments should consider the arid nature of our continent and not be restricted by greenies. Governments should be lateral in their thinking about the availability of water. Australia is a dry continent but, as it is surrounded by water, the availability of moisture is not a problem. Governments should examine Australia's river systems, especially the Fitzroy River system in Western Australia, of which I am sure the Minister is aware.

**Mr Amery:** That is in the western part of the Murray.

**Mr WINDSOR:** Yes, the western part of the Murray. The volume of water flowing into the ocean from the Fitzroy River is the second-highest ocean outflow in the world. Although Australia is a dry nation an enormous volume of water flows into the ocean from that river system. A number of other river systems, though not of that magnitude, nonetheless carry tremendous amounts of water away from the arid inland. It is time that governments began to think laterally and examined the feasibility of diverting water inland to ensure the future of the Murray Valley wine grape industry. It is time that governments started to look at productive ventures, rather than pandering to the environmental lobby. Governments have tended to fall foul of environmentalists who have no real understanding of the necessity for the State, and indeed the nation, to be productive. Water is of paramount concern to the growth of any agricultural industry, not the least of which is the Murray Valley wine grape industry.

**Mr Amery:** And pig dogging, perhaps.

**Mr WINDSOR:** The Minister interjected. I know his interjection was meant to be of a personal nature, due to the recent naming of my pig dog, Amery. The Minister is flattered that an Independent member would name a pig dog after him. I will not reflect on the Minister's capacity to hold quail in a confined area, because the debate is restricted to the Murray Valley wine grape industry. The debate about water continues and the encouragement of a productive industry is the matter before the House. A number of issues have been examined by the Independent Pricing and Regulatory Tribunal relating to cost recovery and the use of water. Concerns have been raised which could have an enormous impact on primary producers who grow grapes and enhance Australia's productive capacity, not the least of which are—

**Mr Amery:** From the Murray.

**Mr WINDSOR:** —from the Murray, as the Minister interjected. My electorate of Tamworth has some unique circumstances regarding water storage because it also supplies irrigation water. Its storage area and drainage system are part of the Greater Murray system and are governed by the Murray-Darling cap, essentially the same water system as is dealt with by the bill. Irrigators in my electorate are trying to come to grips with the fact that IPART is attempting to determine the views of irrigators about cost recovery and the real cost of providing water. I will relay some information to the Minister about this in due course.

The costs incurred by irrigators and the department appear to be grey areas. I will provide the Minister with information relating specifically to the Peel Valley, where cost recovery is almost attainable. It is important to encourage industry, which needs water to exist, whether a wine grape industry or a new food processing factory in an inland community. We do not want departments to incur bloated cost recovery if the cost is not directly attributable to the irrigators that give the industry its productive capacity. No-one could argue about the social aspect of providing facilities that will create jobs for communities.

I conclude by making the following points. Honourable members should support the bill because it will ensure the viability of the Murray Valley. However, it is pointless to talk about the Murray Valley wine grape industry if other industries are subject to water restrictions. I do not wish to be critical of IPART, but I implore the Minister to request the department to examine the figures in relation to the cost of irrigation in a number of valleys across the State and to obtain a breakdown so that when irrigators are charged for water they pay for the cost of irrigation rather than the cost of duplication and bureaucracy. A large number of people employed by the Department of Land and Water Conservation have an environmental bent and are not in the business of water management but water regulation. People who use water in a productive capacity should not be charged. If people are employed to police water regulation the community should pay, not the irrigators per se.

**Mr AMERY** (Mount Druitt—Minister for Agriculture, and Minister for Land and Water Conservation) [10.52 p.m.], in reply: I thank the honourable member for Murray, who led for the Opposition; the honourable member for Waratah, who supported the bill on behalf of the Government; and the honourable members representing the

electorates of Barwon, Albury and Tamworth for their contributions and support of the legislation. It never ceases to amaze me how members stretch provisions of legislation to introduce other matters into the debate. Tonight the effort of some honourable members stretched my flexibility on these matters. This legislation is needed so a marketing order can continue while the Government's competition policy is reviewed. Many members referred to a number of issues during the debate. In relation to the wine industry incorporating the Murray Valley wine grape industry, they talked about the general growth of and their support for the Australian and New South Wales wine industry. I did not disagree with one comment made in relation to the industry. We should be proud that the industry is expanding rapidly, as was referred to by both the honourable member for Murray and the honourable member for Albury.

The honourable member for Waratah said he was proud of the Hunter Valley region. The Barossa Valley is often compared with the Hunter Valley. Those two large production areas must realise that a number of other regions are now strongly competing with them in relation to wine volume and quality. The honourable member for Murray talked about the overseas reputation of Australian wine. I have travelled through the United Kingdom and observed many businesses proudly displaying a sign stating, "We serve Australian wines." In the United Kingdom Australian wines are the fourth-largest selling wine, and the most popular brand is an Australian product. Much of that product is blended from New South Wales sources. Overall, I support the comments made about the wine industry.

I refer to the comments made about water, an issue that dominated the contribution of the honourable member for Tamworth. Wine grapes are a water-efficient product. In fact, a number of farmers in the Murrumbidgee Irrigation Area grew rice and then changed to a different product, halving their water allocation. They traded the unused portion of the water allocation in the marketplace. The purpose of the water debate is to give long-term security to our agricultural industries, particularly the wine industry, which, with proper investment and technology, is one of our most efficient agricultural industries. It will provide excellent and secure returns for farmers who invest in it. I give a commitment that the Government will continue to ensure that our water supply has long-term sustainability, which is the goal of the current water policy debate. This is not a case of simply allocating more water to a new industry but of using our existing limited water supply more efficiently.

The honourable member for Tamworth referred to the fact that much of Australia's available water supply is not being used. He talked about the Fitzroy River and parts of northern Australia, where monsoon rains flow into the ocean. It is interesting that the combined volume of water in all Australian rivers is only a percentage of that in the Mississippi River. That shows how arid our country is. This is an important aspect of the debate. I take on board all the comments made in the water debate. This issue is not about pumping more water from the rivers; it is about using water more efficiently and maintaining the quality of our river water at the highest possible standard for future generations.

The honourable member for Barwon spoke about research. I am pleased to inform the House that since the restructuring a couple of years ago the Government is now contributing to viticulture research, particularly in the Wagga Wagga region. In response to comments about the Government's support for the wine industry, I inform the House that I am in constant contact with all wine industry regions in the State and that the Government is dealing constantly with the industry's priorities and concerns. Overall, with the exception of a couple of negative comments made by Opposition members on the interpretation of water policy and so on, their contributions have been reasonably positive, and I support them. I thank all members for their support of the legislation.

**Motion agreed to.**

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

#### **PARTNERSHIP AMENDMENT BILL**

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

#### **FINES AMENDMENT BILL**

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

#### **LOCAL GOVERNMENT AMENDMENT (PARKING AND WHEEL CLAMPING) BILL**

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

#### **Second Reading**

**Mr E. T. PAGE** (Coogee—Minister for Local Government) [11.00 p.m.]: I move:

That this bill be now read a second time.

The primary objectives of this bill are to ban the wheel clamping of vehicles, ensure that vehicles are not detained contrary to law and clarify that private landowners may enter into agreements with councils for the purposes of councils enforcing parking restrictions on their land. The cumulative effect of the measures will be the creation of a fair, transparent, flexible and accountable regulatory regime that meets the needs of both motorists and private landowners. The proposals contained in the bill represent the Government's response to the widespread public concern that currently exists about the unscrupulous conduct of wheel clamping operators purporting to perform parking enforcement services on private land.

As honourable members will recall, in 1997 the Government commissioned a special inquiry into wheel clamping which was conducted by the Hon. Joe Riordan. The inquiry found that people whose vehicles had been wheel clamped were commonly being forced to make on-the-spot cash payments of up to \$285 or more to have the wheel clamps removed from their vehicles, or face further substantial tow-away and impounding charges. The inquiry also heard complaints from many motorists about the lack of adequate warning signs on land controlled by the wheel clamping operators, and concluded that the activities of the wheel clampers appeared to be focused more towards making money than controlling parking. Instances were reported of persons of very limited financial means being stood over by aggressive wheel clamping operators demanding immediate cash payment.

I understand that the wheel clampers do not release the vehicle until all the fees and charges are fully paid in cash. If the release fee is not paid immediately, the person is simply left stranded. Often the motor vehicle is then towed away and further fees and charges are imposed. No consideration is given to whether the person is elderly, sick or disabled, unemployed or in severe financial stress. No consideration is given as to whether it is late at night, public transport is unavailable, there are automatic teller machines in the area from which to obtain cash, or the person may be vulnerable and placed at great personal risk if deprived of his or her vehicle. The behaviour of many of the wheel clamping operators can only be described as unreasonable and oppressive. It cannot be allowed to continue.

By the same token, the Riordan inquiry also found that the lack of clarity in the law relating to vehicles trespassing on private land had been exploited by some inconsiderate motorists. The inquiry received many submissions from occupants

of residential flat buildings, business owners, and a range of other persons, concerning the inconvenience and problems of cars parked illegally on their property. The Government subscribes to the view that landowners have a right to be adequately protected by law from the inconvenience of cars parked illegally on their property. Businesses that have dedicated customer parking spaces should not have to suffer a loss in trade just because a lazy or inconsiderate motorist decides to use those parking spaces for other purposes.

Achieving an effective, workable solution to the problems of wheel clamping and vehicle trespass on private land must, therefore, also involve introducing safeguards for the rights of landowners. As stated earlier, the purpose of the bill now before the House is to achieve an equitable balance between the interests of both motorists and landowners. I shall now turn to the specific provisions of the bill. These can be divided into two main parts: those provisions which seek to protect the interests of motorists; and those provisions which seek to protect the interests of landowners and occupiers. In order to protect the interests of motorists, the bill makes the immobilisation of a vehicle by means of wheel clamps an offence punishable either by way of a penalty notice of \$300 imposed by police or a council, or prosecution of the offender by summons, in which case the maximum fine that may be imposed by the court will be \$2,200.

These levels of penalties should provide a very strong deterrent against illegal wheel clamping. However, wheel clamping will not be an offence when it is performed by persons who want to secure their own vehicles against theft or misuse. This discretion will be important to a wide range of vehicle owners and users. For example, councils and public utilities often need to secure heavy machinery on remote job sites. Should it be necessary to ban other forms of vehicle immobilisation, this will be achievable by means of regulation. The bill seeks to further protect the interests of motorists by also making the unlawful detention of a vehicle an offence. Accordingly, it provides that a person who detains a vehicle will be required to release that vehicle on demand to any person having lawful right to the possession or control of the vehicle.

The bill also prohibits a person who has detained a vehicle from demanding any payment for or in relation to the release of the vehicle. No longer will it be possible for landowners or wheel clamping operators acting on their behalf to extort substantial cash payment release fees from motorists. To bolster these measures, the common law remedy of distress

damage feasant is to be abolished to the extent to which it applies to trespass on land by vehicles. In other words, an occupier of land will not be able to detain a vehicle on the land until compensation is paid for any damage done unless permitted by other lawful means. However, the provisions relating to vehicle immobilisation will not affect any right a person has to immobilise a vehicle under a court order or under a credit contract with respect to the vehicle.

Moreover, the provisions relating to the detention of a vehicle will not affect any right to detain a vehicle that a person may have under the Impounding Act or any other Act, under lien, under a court order, or under an agreement or arrangement in force with respect to the vehicle. To remove any possibility of misunderstanding, I point out that the foregoing provisions will not affect the operations of private parking stations and similar commercial undertakings that allow motorists to park on the basis of the payment of a fee. Parking station operators will be able to continue to impose parking fees and receive payment of parking fees from motorists in exactly the same way that this currently occurs.

I add that these provisions will not impinge on licensed private security industry operators continuing to provide legitimate security industry services to landowners. The bill seeks to protect the interests of landowners and occupiers by providing that an owner of private land may enter into an agreement with the local council under which all or part of the land can come under the council's control for the purposes of parking. Once an agreement is finalised, the council would perform parking control functions in respect of the land in generally the same way that it controls parking within its own free parking areas. That is, the council's parking enforcement officers would monitor compliance with parking restrictions or prohibitions, and issue penalty notices for offences.

The bill provides that where private land is placed under council parking control the offence of failing to comply with a notice shall be punishable either by way of a penalty notice or via prosecution of the offender in the same manner as currently applies in respect of parking offences in council free parking areas. Landowners should also recognise that unauthorised parking can be prevented or discouraged by means other than wheel clamping. They can take some responsibility when unauthorised parking is a problem by means ranging from signs to fencing and gates. It is envisaged that not all landowners across the State will need to seek the additional level of deterrence against

unauthorised motor vehicles parking on their land that would be afforded by placing that land under council control.

In acknowledging that not all private land needs to be placed under council parking control, it is also recognised that cases will arise in which a vehicle is trespassing on private land that is not subject to council parking control. In these situations other remedies can be taken depending on the particular circumstances. For example, if the vehicle is abandoned or unattended, resort may be made to the Impounding Act 1993 provisions to have the vehicle impounded by the council of the area. If the vehicle has been left on a footpath, or in a driveway, or on the street in such a position as to obstruct the proper flow of traffic or to constitute a danger to the pedestrians, either the council or the police may order the immediate impounding of the vehicle under the Impounding Act or the Traffic Act, according to the circumstances. Provision also exists under legislation governing State emergency services, fire brigades and the like to remove vehicles and obstructions in particular circumstances.

The broad effect of the bill is to merge the administration and enforcement of parking restrictions on private land into the existing powers of councils to regulate parking. The result will be that these functions will be carried out in generally the same way that many councils already carry out parking enforcement in malls and shopping centres. It is important to note that under the provisions of the Local Government Act a vehicle owner is absolved from liability if that person can provide satisfactory evidence that his or her vehicle was a stolen vehicle at the time a parking offence was committed. That safeguard will also apply to parking offences on private land subject to a council parking agreement. In keeping with the non-prescriptive nature of the Local Government Act, the bill does not seek to prescribe in detail each of the administrative procedures that councils will employ in giving effect to the bill's objectives relating to private land parking control agreements.

Instead, the Department of Local Government will provide general guidance to councils in this area. The guidelines the department intends to provide to councils will be based around the principles of fairness, transparency and accountability. For example, the department intends to emphasise the need for councils to ensure that parking agreements only proceed where the landowner has agreed to erect sufficient notices and signs warning motorists about the parking restrictions, or prohibitions, that apply in respect of the land. Councils will also be encouraged to



stipulate reasonable standards for fencing, gates, barriers and the like. This recognises that landowners should take reasonable measures to minimise the scope for unauthorised parking. Most motorists are law-abiding persons who will observe parking restrictions and prohibitions provided that relevant notices and signs are prominently displayed and are readily visible.

It is envisaged that in practice the requirements relating to notices, signs, and gates, et cetera, will generally be reflective of both the council's and the landowner's needs, as well as the physical characteristics, zoning, location or use of the land. For example, at the landowner's request, notices or

signs advising motorists of the terms and conditions for parking on land comprising a doctor's surgery might stipulate that certain parking spaces are reserved for medical practitioners and others for patients visiting the surgery, the parking limitations in force and the penalty for parking offences, et cetera. I anticipate that the bill will gain the support of the local government sector. Moreover, these measures are certain to be welcomed by all fair-minded members of the community. I commend the bill to the House.

**Debate adjourned on motion by Mr Kerr.**

**House adjourned at 11.12 p.m.**

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