LEGISLATIVE ASSEMBLY

Friday 26 October 2001

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Mr Speaker (The Hon. John Henry Murray) took the chair at 10.00 a.m.

Mr Speaker offered the Prayer.

STANDING COMMITTEE ON PUBLIC WORKS

Report: Sick Building Syndrome

Ms BEAMER (Mulgoa) [10.00 a.m.]: This report by the Public Works Committee on sick building syndrome deals with the emerging problem of the quality of our indoor environment. Contemporary buildings are being designed to completely separate occupants from the external environment. This initially occurred for apparently sound reasons. People sought protection and relief from extremes of hot and cold climates while at the same time pollution levels in the outside environment were rightly seen as causing health problems. Yet it seems that this cocooning has brought about its own set of problems. Evidence is now mounting that this artificially created environment is bad for our health and bad for the economy

Given the link between these emerging indoor pollution problems and the provision of building infrastructure, the committee decided to look at one of the health problems associated with the indoor environment by inquiring into sick building syndrome. Poor indoor air quality and sick building syndrome are closely linked to the way we design, assess and deliver buildings, the health of occupants, the demands for energy and the provision of environmentally sustainable buildings. The inquiry, therefore, neatly meshed the committee's infrastructure focus with its environmental focus. The committee learned that poor indoor air quality and associated health problems, such as sick building syndrome, are costing hundreds of millions, if not billions, of dollars per year in lost productivity.

Indeed, one estimate, based on studies conducted in the United States of America, suggested that indoor air pollution could be costing the nation as much as $12 billion annually. To these costs must be added the hidden health costs borne by workers and society through sickness. Some research indicates that between 40 per cent and 60 per cent of office environments are affected by sick building syndrome. In the United States of America health problems associated with poor internal air quality are regarded as one of the top five key environmental health risks. In addition to these health and productivity concerns, current building design and operation is consuming large chunks of energy to support this artificial environment. There are then significant operating costs associated with poorly designed buildings.

The factors that affect indoor air quality are the responsibility of a range of public sector agencies. From the Government's perspective, it is essential that the issue be given a focus. The committee has recommended that the Government establish a working group with representatives from relevant agencies to tackle the issue. This is the committee's most important recommendation. The Government, with its stock of low rise buildings, can provide the lead and the example in this area, but the nature of the problem will require a concerted effort by a range of interested parties across all jurisdictions, including the private sector. Indoor air quality should be given a specific focus in the codes and standards that set the framework for buildings in Australia, particularly the Building Code of Australia.

Wherever possible the totally artificial boundary between the indoor and the outdoor needs to be relaxed. This is the job of ecologically sustainable design, which has to be more rigorously pursued. New building design has to integrate the need for technological solutions with the benefits of our relatively benign climate, with its good sunlight and fresh air. The committee was pleased to learn that these approaches have already been developed and implemented by the Department of Education and Training and the Department of Public Works and Services in New South Wales schools. These innovative approaches will be further encouraged through comprehensive life-cycle assessment in design. This could mean more up-front investment, but it will result in considerable savings over the life of the building, through reduced maintenance and operating costs.

Expenditure on occupants amounts to 92 per cent of outlays over the life of a building, so investment that increases productivity and improves the health of occupants will be readily paid back. Heating ventilation

and airconditioning [HVAC] systems are one of the critical factors in the indoor air quality equation. Design needs to move away from an automatic recourse to full-scale mechanical ventilation systems. HVAC systems need to be designed to specific high standards and maintained at those standards through compliance monitoring. It is essential that buildings be constructed and fitted out with materials that do not pollute the indoor environment.

Existing buildings need to be better managed. For example, HVAC maintenance should ensure the elimination of microbiological contaminants, new fit-outs should not conflict with the design principles of the building, and innovative solutions that allow prospective tenants to compare the quality of the indoor air in buildings should be developed. Government procurement policies can be utilised to drive some of these changes. The other vital component in addressing these problems is education for all those involved in the building industry, as well as the general public. The committee is not suggesting a return to primitive, unpleasant buildings. Rather, it is arguing for a more balanced approach that combines the best of modern technological solutions with the lessons learned from long experience and commonsense. This should result in better health and a greater sense of wellbeing, both at work and at home, and in improved productivity and reduced demands on energy.

In conclusion I thank my fellow committee members, the honourable member for Cessnock, the honourable member for Kiama, the honourable member for Blacktown, the honourable member for Murrumbidgee and the honourable member for Davidson. I pay a special tribute to a long-term member of the committee who has since left this Parliament, the former honourable member for Tamworth, Tony Windsor, who was a very active member of the Standing Committee on Public Works. He will be missed because of his pursuit of the issues that he raised in Parliament. He was a tireless member and I look forward to his representation of constituents in another Parliament. Similarly I look forward to working with the honourable member for Northern Tablelands who has joined the committee and attended his first meeting yesterday.

I praise the committee staff for their efforts during the inquiry. In particular I acknowledge the contribution made by Chris Papadopoulos and congratulate him on the recent birth of his child. I also offer thanks to Ian Thackeray and Carolynne James. I look forward to the Government's response to the committee's recommendations on sick building syndrome. It was an interesting report for the committee to produce. We learned a lot about volatile organic compounds [VOCs] as well as the heating, cooling and ventilation systems of buildings. The report deals in depth with indoor air quality. I have heard many members, upon entering the Parliament House complex, talk about how ill they feel after spending a few days here, particularly with eye and respiratory problems. The Parliament may wish to examine this building in the context of this report. I commend the report to the House.

Mr HICKEY (Cessnock) [10.10 a.m.]: I begin by reiterating the chair's praise for the efforts of the committee's staff, who guided a large number of committee members successfully through the problem of sick building syndrome. The guidance that was given to other members by the former honourable member for Tamworth, Tony Windsor, through his comments and commitment to the committee were fantastic to say the least. The guidance contributed by the chair of the committee was excellent also. It is great to be part of such a hardworking committee. The economic and environmental implications of sick building syndrome, particularly the effect of materials such as volatile organic compounds [VOCs] on the quality of indoor environments, must be addressed.

The University of Sydney was one existing infrastructure that the committee examined. Mr David Rowe gave evidence of his method of monitoring air quality and the regulation of temperature at the University of Sydney, and that was quite an interesting model. The committee visited the Newtown play centre and examined noise levels, which was addressed by having earth mounds and installation compounds in the roof. Those methods of addressing noise pollution at the centre were very interesting. The centre also has a heat pump water heater which is a hot water system operating in reverse refrigeration mode by extracting heat energy from outside air and pumping that through a coil which is wrapped around a water storage tank. That was also very interesting.

The bottom line of the report is that in the interests of better looking after tenants' health, there is a need to return to a more natural environment by installing more windows that can be opened to provide sunlight, better ventilation and better circulation of air throughout buildings. The problem should be addressed through an education program for builders and tenants. As the chair of the committee said, a major problem is ill health, or the perception of ill health—I think it is more a perception than a reality. I believe that airconditioning is one of the pitfalls of modern life.

Although in one sense airconditioning is a plus, people have become very soft and I think it is responsible for a number of illnesses. Lack of ventilation and poor air quality are blamed for many of the ailments that are evident in the community. The work of committee members and staff in producing a hard-hitting report should be appreciated in the context of the provision of useful information about building construction and infrastructure. I hope the problems highlighted in the report will be addressed in future building codes. I commend the report to the House.

Mr HUNTER (Lake Macquarie) [10.13 a.m.]: Although I am no longer a member of the Standing Committee on Public Works, I was a member during the previous Parliament and I still take a very keen interest in its work. The Standing Committee on Public Works is one of the very important committees of this State Parliament. I join with previous speakers in this debate in congratulating all members of the committee on the great work they have done in the production of the report entitled "Sick Building Syndrome". I take this opportunity to comment on remarks made by the chair about the former member for Tamworth, Mr Tony Windsor.

As all honourable members know, Tony retired from the New South Wales Parliament and is standing for the next Federal election. When I was a member of the Standing Committee on Public Works I worked with Tony and I know he took a very keen interest in the sick building syndrome. I am sure he contributed greatly to this report. I wish him well in his future endeavours. I think all honourable members would agree that he will probably very soon be entering the Federal Parliament and I am sure he will take up public works issues in that arena.

The committee learned that poor indoor air quality and associated health problems such as the sick building syndrome cost hundreds of millions of dollars per year in lost productivity. The cost ought to be added to the hidden health costs borne by workers and society as a result of sickness. Some research indicates that between 40 per cent and 60 per cent of office environments are affected by sick building syndrome. I believe that during the public hearings the committee was advised that its inquiry was timely and needed. The committee took the view that it is time to deal with this problem and that it is important to do so before legal action by those who are affected by sick building syndrome forces governments throughout the country, but particularly in New South Wales, to act. The report's executive summary points out that in recent years governments have taken direct and decisive action on improving the quality of ambient air. The executive summary states:

> In today's modern industrial society, however, people spend anywhere from 70 to 90 per cent of their time indoors. So the quality of indoor air is an issue worthy of consideration.

The executive summary also states:

> Indoor air quality is defined as the nature of the air that affects the health and well-being of the building's occupants ...
>
> Current indications are that poor indoor air quality has adverse implications for health ...
>
> A number of health problems are associated with indoor air pollution, including Building Related Illness {BRI}, Multiple Chemical Sensitivity (MCS) and Sick Building Syndrome (SBS).

It is interesting to note what some of the symptoms are for sick building syndrome. The executive summary cites the following symptoms:

> Sensory irritation to eyes, nose and throat manifesting as pain, a feeling of dryness, smarting, stinging irritation, hoarseness or voice problems.
>
> Neurotoxic or general health problems such as headache, sluggishness and mental fatigue, reduced memory, reduced capacity to concentrate, dizziness, intoxication, nausea and vomiting, and tiredness.
>
> Skin irritation, including pain, reddening, smarting, or itching sensations or dry skin.
>
> Non-specific hypersensitivity reactions, including running nose or eyes, asthma-like symptoms among non-asthmatics, or sounds from the respiratory system.
>
> Upper respiratory/mucus membrane symptoms.
>
> Odour and taste sensations such as changed sensitivity of olfactory and gustatory senses or unpleasant olfactory or gustatory perceptions.

While there is no unanimity on the precise causes of SBS, there was sufficient agreement in the available material to satisfy the committee that the causes of SBS are multifactorial. It is essentially a twentieth-century

condition closely related to the way buildings are designed, constructed, fitted out and operated. The report refers to poor building design, particularly the complete isolation of occupants from the outside environment and the recourse to artificial lighting and air; and chemical, biological and physical air pollutants from the building and fit-out materials and heating, ventilation and airconditioning systems. The report refers also to poor design and operation of heating, ventilation and airconditioning systems and psychosocial factors such as management attitudes in the workplace, stress and interpersonal relationships. The report includes recommendations to address those problems. It advocates a co-ordinated approach, research and education. I commend the report to the House.

Report noted.

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Report: 6th Meeting on the Annual Report of the Health Care Complaints Commission

Mr HUNTER (Lake Macquarie) [10.21 a.m.]: I am pleased to be afforded the opportunity to speak on the report entitled "6th Meeting on the Annual Report of the Health Care Complaints Commission", which was tabled in June. During this meeting the committee questioned the commissioner on the commission's 1999-2000 annual report in accordance with the provisions of section 65 (1) (c) of the Health Care Complaints Act 1993. This is the third annual general meeting that the committee has held with the commissioner since I have been chairman, and the first with Amanda Adrian as commissioner, following Merrilyn Walton's move to academia.

As always, the report summarises the key issues raised between the committee and the commission during the meeting, including complaints handling processes, investigations, prosecutions, the Patient Support Officer scheme and complaints against unregistered health practitioners. I would like to discuss a few of those key areas. The committee noted that there continued to be a large amount of outstanding investigations requiring completion—an ongoing issue at the commission since its inception. While 277 investigations were finalised during the 1999-2000 financial year, more than 500 cases were still outstanding.

Long investigation times are a source of great anxiety for both complainants and respondents. In the course of our current inquiry into investigations and prosecutions by the commission we have received many submissions from doctors who have waited several years for the finalisation of their matter, often only to be told that the commission has found no issues to proceed with at the end of that period. Of the 85 submissions received from doctors, 18 specifically expressed concern at the length of time the commission had taken to investigate a complaint made against them. Of those that provided details of the time delay, 29 months is the average, and the longest time lapse complained of was five years.

The committee believes that speeding up complaint handling, assessment, investigation and prosecution times should be a key focus of the new commissioner. The commission received a record number of complaints during 1999-2000—nearly 2,500, an increase of 18 per cent on the previous year. However, the commissioner advised that 10 per cent of that increase is due to now counting complaints referred to the commission by the health registration boards. Previously those complaints were not included in the figures put out by the commission. Nevertheless, the commission continues to see a significant growth in complaints each year and it is important that its processes and procedures are sufficiently streamlined to deal with that.

The way in which the commission has been conducting its investigations and prosecutions was also a focus of the meeting. The committee raised the commission's handling of a number of recent cases that have gone before the Medical Tribunal. One case was that of Dr Sabag and I note the doctor has appealed to the Supreme Court on a point of law. We await the final determination of the Supreme Court in that case. That case and others like it will be canvassed in more detail in the committee's final report on the current inquiry. The committee is aware that it is not able to reinvestigate cases, but certainly it will look at the procedures put in place by the commission and why mistakes are happening.

The committee believes that it is incumbent on the commission to be fair to respondents at all times during both investigations and prosecutions, and that matters should be proceeded with only when there is sufficient evidentiary weight. The rules of natural justice must apply and must always be observed, even when the legislation is silent on the issue. Procedural fairness underpins the administrative law process in which the commission operates. Divisions 5 and 6 of the Health Care Complaints Act 1993 must always be read by the commission with that in mind. At the meeting the committee raised the question of whether there is a need for a distinct division between the investigations and prosecutions units of the commission in light of the way that some prosecutions have been proceeded with.

During a study tour to New Zealand late last year the committee was briefed on how the New Zealand Health and Disability Commissioner has a separate and legislatively independent Director of Prosecutions. The committee is concerned as to whether the present structure of the commission allows for sufficient independent scrutiny of the investigation before commencing a prosecution. Although it must be acknowledged that medical boards in other States, and for that matter around the world, investigate, prosecute and adjudicate, the commission holding both the investigation and prosecutions arms has been controversial in New South Wales. Comparisons are regularly made to the committee with the separation between the police and the Director of Public Prosecutions. The process must inspire confidence in all parties and it must stand up to external scrutiny.

While the commissioner assured the committee that the old structure of having a combined director for both investigations and prosecutions is to be abolished, the committee intends to stringently examine the question of whether there is a need for external independent review during its current inquiry. The commissioner raised with the committee the ongoing problems in relation to unregistered health care practitioners. In some cases such practitioners' conduct causes a level of harm to their clients that is of considerable concern for the commission. In a number of cases the commission has made adverse comments and criticisms of those practitioners. However, under the present legislative framework, unless the commission can establish that the unregistered practitioner's conduct reaches the criminal standard, there is little it can do to punish the practitioner or stop harmful practices.

The committee, once again, draws the attention of the Minister for Health to the recommendations of its 1998 report into unregistered health practitioners that proposed a regulatory regime to deal with the issue as well as providing the commissioner with a public-naming power similar to the one operating in the area of Fair Trading in relation to dangerous products. During the previous Parliament I was a member of the committee that handed down the report. At that time the committee was chaired by the honourable member for Wallsend. Its recommendations, if implemented, will go a long way to solving this area of concern put forward by the commissioner at a meeting.

I officially welcome Amanda Adrian as commissioner and thank her for her participation in this report. I believe that the position of Health Care Complaints Commissioner will hold many challenges for her. The commission has operated for eight years now and I believe that a new perspective into its operations will be highly beneficial. After studying interstate and overseas jurisdictions I can confidently say that ours is amongst the best in the world in terms of rigour. I believe also that, on the whole, it inspires the public's confidence. However, the model was always a unique one. I believe that it has generally worked well but, like all models, it needs to be the subject of refinement as time goes on. The current review of the Act should help to do that.

An essential role of the parliamentary committee is to oversight the operation of both the commission and the Act, and we take our task very seriously. We will shortly table our report into consultation procedures, which I believe will assist in leading to the successful conciliation of many more health complaints. I hope that our investigations and prosecutions report will also be tabled in time for its recommendations to be considered before the Health Care Complaints Act is amended. I would like to take this opportunity to thank the members of my committee, who are very interested in the commission and its operations and spend a lot of their valuable time on committee work. I, as chairman, certainly appreciate their efforts. I am sure that the committee's future report on investigations and prosecutions will lead to an improvement in the functions and operations of the Health Care Complaints Commission. I commend the report to the House.

Mr W. D. SMITH (South Coast) [10.30 a.m.]: I am pleased to have this opportunity to speak to the report of the Committee on the Health Care Complaints Commission entitled "6th Meeting on the Annual Report of the Health Care Complaints Commission", produced in accordance with the provisions of section 65 (1) of the Health Care Complaints Act 1993. The committee notes the role of the Patient Support Office within the commission as an alternative dispute resolution mechanism. That office works closely with area health services and hospitals, including the patient representatives employed by those hospitals, who seek to deal with health care complaints as closely as possible to the source. Previous inquiries have indicated that timely local complaints resolution is highly effective for the majority of health care complaints requiring an explanation or apology for actions taken, and reassurance that preventative steps have been taken against a repeat of the occurrence.

According to the commission's report, 4,000 consumers were assisted by the Patient Support Office during 1999-2000—a 60 per cent increase over the previous year. The committee notes the commissioner's advice that the expanding workload of the Patient Support Office and the value of the service add significantly to the improvement of the health care complaints system. The increased workload has also meant that several

new patient support officers have been added to the Patient Support Office over an 18-month period. To assist regional New South Wales, an officer has been appointed to handle consumer inquiries from outside metropolitan areas. Through ongoing inquiries the committee has become aware of some particular issues concerning the Patient Support Office and area health services. These have arisen in relation to decisions about matters referred for conciliation, in which, for example, the role of the Patient Support Office has been described by one area health service as "counterproductive to the integrity of local conciliation".

With regard to communications between the Patient Support Office and area health services and hospitals, concerns were raised by one area health service about confrontational communications. One hospital indicated that where a full-time patient liaison officer has been employed—that is, by the hospital—there is "limited value for the Patient Support Office, and the benefit of their role is more apparent to hospitals without a Patient Liaison Officer or equivalent". While the committee recognises that there are likely to be inherent tensions between the parties involved in complaints handling, there is strong support from members of the public in a process that ensures health care complaints are addressed independently. Consequently, the committee is likely to revisit the matter of local complaints handling at some future stage. The committee notes that additional funding has been sought by the commission to enable it to employee patient support officers for all local health areas. The commission has also employed an Aboriginal support officer to work exclusively with Aboriginal communities around New South Wales. I commend the report to the House.

Mr WEBB (Monaro) [10.34 a.m.]: I am pleased to speak to the report entitled "6th Meeting on the Annual Report of the Health Care Complaints Commission". I endorse the comments of the chair of the committee in relation to the number of complaints received by the commission this year. The commission addresses many important health issues, and the report details the dealings in relation to some of those issues. I also endorse the chairman's comments about the new commissioner, Amanda Adrian, and I wish her all the best in her role as commissioner. One of the issues that arises year after year at these meetings is the disappointing number of complaints that are successfully conciliated. Spiralling costs of medical litigation in New South Wales have been acknowledged by the Parliament during the debate on the tort reform package put forward by the Minister for Health earlier this year. Resolution of complaints at an early stage can have a real impact on matters that subsequently involve litigation.

The committee is currently finalising its report into health complaint conciliation processes in New South Wales and hopes to table the report in the House in a few weeks. During the course of the inquiry a number of key issues emerged regarding the current process, and the committee will address and make recommendations on those issues in its final report. First, for conciliation to take place both parties to the complaint must willingly agree to participate. It is a totally voluntary process. Currently there is mutual agreement to proceed in only 25 per cent of the cases that have been identified as suitable for conciliation. This low consent rate is extremely disappointing. The 1997 review of the Health Care Complaints Act, which was chaired by John Cornwell, recommended that the responsibility to seek the consent of the parties be given to the Health Conciliation Registry, rather than remain with the Health Care Complaints Commission, given that the registry has more of a vested interest in gaining agreement and is probably the most suitable body to effectively explain the processes and benefits of conciliation.

Second, the Health Conciliation Registry has had a tradition of practising mediation rather than conciliation. This is confusing for parties, given that mediation demands that the mediator come to the conference content free, with no knowledge of the case. This requires parties to once again tell their story in detail from the beginning at each conference, rather than recap the main issues in either agreement or dispute, as occurs in conciliation. Such a process can be both emotional and frustrating for the parties, particularly when they feel that they have previously told all these details to the Health Care Complaints Commission.

Third, based on a survey conducted by the committee of both respondents and complainants who attended conciliation over a three-year period, it is clear that overwhelmingly respondents to complaints find the conciliation process fairer than do complainants. A great deal of this problem seems to be connected to the power imbalance that patients feel when they are brought face to face with health practitioners and senior executives of health facilities, who have a tendency to talk in medical jargon and are trained in a specialist body of knowledge that patients do not understand. It was traditional practice for the previous registrar to deny complainants the ability to bring support people into the mediation room with them. This problem has been exacerbated by the fact that the legislation is silent on the matter and refers only to "agents", who would represent the complainants at the conference rather than be friends or relatives who are there purely for emotional support.

Fourth, problems have clearly arisen in relation to regional coverage and far too many conciliations have been conducted over the phone. This situation has contributed to the feeling of power imbalances between complainants and respondents. Finally, while the current system of employing part-time conciliators on contract allows for flexibility, there is clearly a need for better selection processes, better training and better ethnic coverage. The key issues I have just outlined will be addressed in the committee's report. It is hoped that the recommendations of the report will facilitate a far more effective conciliation process, and that in future years we will be congratulate the registry and the commission on the high levels of complaint conciliation. The commission plays an important role in identifying problems in the system and assisting claimants in the resolution of their problems.

Ms ANDREWS (Peats) [10.39 a.m.]: It gives me pleasure to speak to the report of the Committee on the Health Care Complaints Commission entitled "6th Meeting of the Annual Report of the Health Care Complaints Commission", produced in accordance with the provisions of section 65 (1) of the Health Care Complaints Act 1993. Health care practice in New South Wales gains ongoing benefit from analysis of the types of complaints made to the Health Care Complaints Commission. Complaints are categorised according to the main issue contained in the complaint. In 1999-2000 the category of clinical standards received the largest number of complaints. These stood at 1,264, or 52 per cent, of all complaints.

Other categories receiving significant numbers of complaints were quality of care, 332 complaints; business practices, 228 complaints; prescribing drugs, 171 complaints; provider-consumer relationship, 123 complaints; and patients' rights, 101 complaints. The committee noted that the number of complaints concerning clinical standards was down on the previous year by 10 per cent. The commissioner reported that there has been ongoing work within the Health Care Complaints Commission to allocate a complaint to its correct category. This enables a more accurate reflection of the types of complaints to identify trends and report them to relevant practitioners and agencies. An example of such a trend is reporting of the category of prescribing drugs, which has almost doubled since 1997-98—from 97 to 171 in 1999-2000. The commission has indicated that the increase is due to better collection of data by both pharmaceutical services and other agencies—for instance, the methadone committee—and by individual practitioners.

In other jurisdictions health care complaints commissioners have been similarly analysing types of complaints with a view to better informing health care practice and the community in their respective States and Territories. Across the nation health care complaints commissioners, or their equivalents, have also investigated ways to share the outcomes of their analysis to improve local practice. Such shared learning in a specialised field is important to assist skilled development in complaints handling and to disseminate information to help health care agencies and professionals better understand emerging issues.

In conclusion, I welcome the new commissioner, Amanda Adrian, and wish her well in her new role. I also pay tribute to the chairman of the committee, my parliamentary colleague the honourable member for Lake Macquarie, and my fellow committee members from both sides of the House for their input, hard work and dedication to this committee. I must say that they take their roles very seriously. The Health Care Complaints Committee plays an invaluable role in this Parliament and, indeed, in the State of New South Wales. I also thank the members of the secretariat whose hard work on behalf of the committee I wish to acknowledge here today.

Report noted.

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Report: Alleged Contempt in Relation to the Draft Report of Bron McKillop on Inquisitorial Systems

Mr PRICE (Maitland) [10.42 a.m.]: The subject of this report is the second of two draft reports on inquisitorial systems which were prepared by Mr Bron McKillop for the Independent Commission Against Corruption in 1994. In correspondence to the committee in May 2000 and in a newspaper article in June 2001, journalist Mr Evan Whitton claimed that ICAC had withheld two chapters of a report from the previous ICAC committee. The report concerned was prepared for ICAC by Mr Bron McKillop in relation to the commission's report entitled "Inquisitorial Systems of Criminal Justice and the ICAC: A Comparison". The tenor of the allegations by Mr Whitton was whether a contempt of the previous committee had occurred. The current Committee on the Independent Commission against Corruption considered there to be sufficient public interest in the issue to examine it further.

Based on a thorough inspection of records belonging to the parliamentary committee and ICAC, it appears unlikely that the document was received. However, it is not possible to determine from the evidence

available whether there was any deliberate intention on the part of the then commissioner or staff of ICAC to mislead the previous committee in not producing the final draft report. The committee wishes to express its concern about the handling of the previous committee's request for access to the research work performed by Mr McKillop for ICAC in relation to the inquisitorial systems report. It is the opinion of the committee that the request contained in the questions on notice for the public hearing on 15 September 1995 was very clear and not open to interpretation. The committee believes that the previous committee should have received a copy of Mr McKillop's final draft report of July 1994. Standing orders and the Parliamentary Evidence Act provide parliamentary committees in New South Wales with the power to send for persons, papers, records and exhibits, and the committee considers that ICAC should abide by such orders to the fullest possible extent.

The committee views the apparent failure of ICAC to provide this material to the previous Committee on the Independent Commission Against Corruption as a very serious matter that warranted further examination. However, the committee does not consider that it is in a position to pursue its inquiries further. The matter in question relates to events that occurred several years ago and, given the passage of time, it is difficult for the committee to effectively conduct an investigation. Formal inquiries to the key individuals involved in ICAC's handling of the matter did not produce any evidence to indicate that a contempt had occurred. The length of time that has passed also means the records relating to the period have been archived. In these circumstances, the resources that the committee had consumed in investigating this matter are significant. In practical terms, the committee is of the view that greater effectiveness and more efficient use of limited resources would be achieved by focusing on inquisitorial systems.

Moreover, the committee considers that it is in the public interest for it to consider fully the advantages and disadvantages of applying an inquisitorial method of inquiry to the operation of ICAC. The committee plans to do so during the third stage of its review of ICAC, due to commence later in the current parliamentary session. The committee will utilise the information contained in the July 1994 McKillop draft report during this stage of the review. The committee notes that the current commissioner, Ms Irene Moss, indicated at the public hearing on 18 June 2001 that she had no problems with making the July 1994 report public. Her opinion was that the missing two chapters do not appear to be controversial in any sense to ICAC. She later added that she would be:

> … quite receptive to these issues being debated. If there are better ways that we can handle inquiries, a much more streamlined and cost-effective way of dealing with inquiries, I would be most open to considering them.

The ICAC's inquiry system and the applicability of non-adversarial processes to this system will be examined in stage three of the parliamentary committee's review of ICAC. The committee now has a copy of the July 1994 McKillop draft report and intends to consider the information contained in it for this further stage of the review. ICAC commissioner, Ms Irene Moss, has indicated that she would welcome discussions on these issues.

Mr KERR (Cronulla) [10.48 a.m.]: I was chairman of the previous committee that was provided with the defective report, despite assurances by ICAC in relation to this matter. I find the report by the parliamentary committee deeply disturbing. I draw the attention of the House to page 4 of the committee's report, which states:

> The ICAC was unable to confirm the membership of the review panel and there were no minutes of its meetings contained on files provided by the ICAC to the Committee.

It is incredible that there is no record of the meetings and that an investigative body cannot investigate the membership of its review panel. It would have greatly assisted the committee if the names of those people had been available and if they had given evidence. I am pleased that the committee has included the article by Mr Evan Whitton as part of the appendices to the report, because his article has been proven correct in every respect. The article drew a critical response from Mrs Moss, who wrote to the editor of the *Sydney Morning Herald*. I wonder whether Mrs Moss now believes her letter was true and, if not, what steps she has taken to correct the record in the *Sydney Morning Herald*. The honourable member for The Hills showed the seriousness of this matter when he asked the commissioner:

> **Mr RICHARDSON:** If the chapters had come to light six years earlier than now there might have been a change in the way that ICAC conducted its business?
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> **Ms MOSS:** I just do not know. I would not know how my predecessor would have handled the recommendations that were made, except to say that I do not think major changes were made to the system. I do not think that major changes were made to the system for the last 12 years in how we hear cases.
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> **Mr RICHARDSON:** No, there have not been, but those chapters might have helped effect a change.
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> **Ms MOSS:** It is possible.

I urge honourable members to read the committee's report in relation to ICAC witnesses and the case studies as to the way people were treated by ICAC. It is now a matter of urgency that the parliamentary committee proceed with a thorough investigation of the pros and cons of the inquisitorial system.

Mr Gaudry: Remember our trip to the north when we talked to people about it?

Mr KERR: Yes, we went to Kyogle, as I am reminded by the honourable member. Honourable members might like to look at the report of that trip to find out what ICAC did to a small community. The letter from the Commissioner of ICAC to the *Sydney Morning Herald* in relation to Evan Whitton's assertion states:

> Evan Whitton's assertion that I did not respond to his concerns about the Inquisitorial Systems report is incorrect …
>
> In fact, I asked my then deputy commissioner, John Feneley, to speak to him, which he did. Furthermore, the ICAC's media manager spoke to Mr Whitton about the matter many months ago. My understanding is that the ICAC provided Bron McKillop's full draft report to the committee in a public hearing on September 15, 1995.

The committee's report establishes that that letter is not true. What has been done to correct the public record? Very few people read the transcript of evidence by the commissioner before the committee, but a great number of people read letters to the editor of the *Sydney Morning Herald* and they are entitled to know the truth about this matter.

Report noted.

PUBLIC ACCOUNTS COMMITTEE

Report: Industry Assistance

Ms HODGKINSON (Burrinjuck) [10.53 a.m.]: There has been community concern recently about development opportunities in regional New South Wales. I will detail a number of ways in which the arrangements of the Department of Regional Development could be improved. One of the committee's initial tasks in the inquiry was to examine the rationales for the Government's industry programs. The committee agreed that the two main possible rationales for a business program were to maintain the efficiency of the economy by correcting market failure and improving markets, and to spend funds and redistribute income to address social issues. If a program did not fit within either of those categories the committee argued that the program should be discontinued.

The committee used this framework to examine the use of financial incentives to attract investment in regional New South Wales and in Sydney. Economic research has found that the use of financial incentives to attract investment does not improve the efficiency of the economy. The Industry Commission in its 1996 report found that these programs can give small gains with respect to output and jobs, but only in the unlikely event that only one State is providing assistance. Other researchers argue that investment is driven more by economic fundamentals, rather than financial incentives. The committee concluded, therefore, that investment attraction programs do not improve the efficiency of the economy.

It is currently Government policy to use investment attraction programs to address social and fairness goals in regional New South Wales. But what about using financial incentives to attract investment to Sydney? Over the past three years, Sydney's unemployment level has been lower than the remainder of the State—on average, approximately 3 per cent less than in the regions. Given that Sydney has less unemployment, there is no social rationale for it. As there is no economic or social rationale for using financial incentives to attract investment to Sydney, the committee recommended that this practice be discontinued. The funds should be diverted to investment attraction in regional New South Wales.

The committee also made some practical recommendations to improve the department's regional operations. For instance, the committee heard in hearings from representatives of regional development groups that people were not aware of the department's services. Councils stated that they are usually the first port of call for prospective businesses because they provide development approvals. However, they could not advise the firms on what assistance was available. They could give only a vague reference to another development group such as a business enterprise centre. Such a bureaucratic response obviously puts the investment at risk.

Generally, services provided by government agencies should be adequately promoted because potential clients should be aware of what the Government can do for them. The committee agreed with councils that they are a suitable vehicle through which the department can promote its programs. Not only are councils a first point of call, but they have a wider network. There are several hundred local councils across New South Wales,

compared with the department's 20 regional offices. The committee recommended that the department should distribute copies of its corporate, regional and small business publications to all local councils, and request councils to exhibit the information to likely beneficiaries.

The committee also examined the department's relationship with local development organisations. For instance, the department provides investment leads to these local groups so they can give a local flavour to the attraction effort. However, there was some comment in hearings that the department did not provide enough leads to local groups and that some of the leads had a low chance of success. The department responded that it was in a no-win situation. If it were too restrictive with the leads to ensure it gave only good opportunities, it would not be giving enough leads. On the other hand, if it distributed leads more widely, it would be criticised for distributing unrealistic leads. The committee agreed with the department on that point.

However, the complaints probably stemmed from the secrecy involved with the leads. Part of their value is they are confidential. But this secrecy prevents scrutiny of the department's relationship with local groups and allows the department's clients to think the worst of it. Accordingly, the committee recommended that the department publish information on the leads it gives to local development organisations, including councils, in its annual report. The information should include the number of total and successful leads each area received and whether leads were duplicated. Those recommendations will improve outcomes for regional New South Wales. More resources will be devoted to help address some of the problems caused by economic restructuring. There will be more transparency in how the department works with local development groups. Those groups will be better able to work with each other. I look forward to the department making these improvements in the coming months.

Mr HUNTER (Lake Macquarie) [10.57 a.m.]: I thank the chairman of the Public Accounts Committee, the honourable member for Fairfield, for giving me an opportunity to speak to the report entitled "Industry Assistance". This inquiry and report followed the Auditor-General's report on the Department of State and Regional Development in 1998. The inquiry concentrated on the Government's main assistance agency, the Department of State and Regional Development, although the comments made in relation to that department are applicable to other agencies that carry out similar industry programs. I note that the committee held hearings in Albury, Armidale and Sydney. To date and generally, New South Wales has avoided much of the wastage and many of the excesses of other governments in Australia and overseas in this area.

The committee chairman pointed out that the New South Wales Government's success in restraining the corporate welfare provided by the department was to be commended. This work was largely attributed to New South Wales Treasury. The committee used two main criteria in applying an essential test to determine whether the Department of State and Regional Development programs were appropriate. It considered whether the programs improved economic efficiency and addressed social justice issues. If those criteria did not apply, the committee recommended that certain functions be discontinued or changed. I noted with interest the executive summary, which states:

> Although the Department of State and Regional Development (DSRD) is divided into a number of Divisions, the best way of analysing the Department is to examine its actual activities. The Committee found DSRD is involved in the following eight activities:
>
> - attracting and retaining economic activity;
> - business advice;
> - promoting NSW;
> - regulation;
> - funding research and development;
> - providing information to business;
> - networking; and
> - community growth strategies.
>
> On a per capita basis, the industry departments in other states have larger budgets than DSRD. The key components of the Department's $90 million to $100 million budget are:
>
> - regional industry assistance (24%);
> - general industry assistance to both Sydney and the regions (11%);
> - assistance to small business in both Sydney and the regions (9%);
> - staff (22%); and
> - general expenses (21%).

There have been a number of common findings between recent reviews of industry assistance in Australia. The main ones are:

- Bidding between States to secure investment is wasteful. Some form of agreement could be reached to stop it.
- Treating industry assistance as commercial-in-confidence is not necessary.
- Standard government procedures (eg eligibility criteria, monitoring and evaluation) should be used for all business programs.
- Selective business programs can distract governments from the unique function of improving the business conditions for all firms in their jurisdiction (eg taxes, infrastructure and regulations).
- The first priority of business programs should be on correcting market failure. Economic transition programs are also appropriate in special circumstances.

The committee recommended change in the provision of financial incentives to attract investment in Sydney. It found that these programs are not efficient and have no social rationale. Further, the committee expressed concern about the value of the department's work in progressing economic development within Sydney when its contribution performance cannot be measured objectively. The committee was also concerned that the department does not publish the individual amounts of the assistance it gives to firms. This is certainly a good report, and obviously the committee spent much time visiting regional and rural areas in the course of the inquiry. The work of the Department of State and Regional Development is certainly very important to Lake Macquarie and the Hunter region. I read the report with interest, and I commend it to the House.

Debate adjourned on motion by Mr R. H. L. Smith.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

Report: Amendments to the Commission for Children and Young People Act 1998 and the Commission for Children and Young People Regulation 2000 Regarding Employment Screening

Mr CAMPBELL (Keira) [11.03 a.m.]: The fourth report of the Committee on Children and Young People deals with necessary amendments regarding employment screening that should be made to the Commission for Children and Young People Act 1998 and the Commission for Children and Young People Regulation 2000. Employment screening for child-related employment is perhaps the most critical function of the Commission for Children and Young People. During the committee's examination of Ms Gillian Calvert, Commissioner for Children and Young People, regarding the first annual report of the Commission for Children and Young People for the 1999-2000 financial year it was noted that there may be a need to consider statutory and regulatory amendments to the component screening of people who work with children and young people.

The Committee on Children and Young People considered that it would be appropriate that, when legislative amendments are proposed to the role and function of the Commission for Children and Young People, such proposals should be referred to the committee for examination. Therefore, the committee's report documents the consideration of several possible amendments to the employment screening provisions of the Commission for Children and Young People Act 1998 and the Commission for Children and Young People Regulation 2000. The committee considered the issue of employment rescreening in the context of section 32 of the Commission for Children and Young People Act 1998, which states:

> **32 Welfare of children to be paramount consideration.**
>
> The welfare of children, and in particular protecting them from child abuse, is the paramount consideration in employment screening.

The committee recommended two amendments to the Act regarding employment screening, and one amendment to the regulation in relation to apprehended violence orders and employment screening. The committee concluded that it is appropriate that the Act should be amended in part 7, Employment screening, to specify that employment screening processes are held to be completed when an employer has been notified of the outcome of the checking process by an employer-related body or an approved screening agency, and to provide that, in a situation where persons are not subject to the full range of screening due to the development and implementation of the employment screening process, no further checks of relevant criminal records, relevant apprehended violence orders, or relevant disciplinary proceedings should be required to be carried out by the employer.

The committee recommended also that part 7 of the Act be amended to give the Commissioner of Police the power to disclose information regarding relevant apprehended violence orders to the Commission for Children and Young People, an employer-related body or an approved screening agency for employment screening purposes. The committee noted that the provisions under the Commission for Children and Young People Act relating to the consideration of relevant disciplinary proceedings for employment screening purposes differ from the provisions relating to relevant apprehended violence orders for employment screening purposes.

The committee considered that a more consistent approach should be adopted with regard to the provisions for relevant disciplinary proceedings and relevant apprehended violence orders for employment screening purposes. To that end, it concluded that the Commission for Children and Young People Regulation should be amended in part 3, Employment screening, to limit the consideration of relevant apprehended violence orders for employment screening purposes to orders taken out in New South Wales only, including relevant interstate orders registered in New South Wales; and to apprehended violence orders issued within the five years prior to 3 July 2000—the date of proclamation of the relevant sections of the Commission for Children and Young People Act 1998.

While the committee considered that there was a need for legislative amendments to the processes for employment screening for child-related employment, it was satisfied that the approach taken in the introduction of the employment screening program was appropriate. The staged implementation, which first saw screening for relevant criminal records, then introduced screening of relevant disciplinary proceedings, and then screening of relevant apprehended violence orders, ensured that, first, the protection of children remained the focus of the employment screening process from the earliest stage; and, second, the screening process focused on the most reliable information—that is, relevant criminal records.

The Committee on Children and Young People is grateful for the opportunity to consult, both formally and informally, with the Commissioner for Children and Young People, Ms Gillian Calvert, on the matters considered in this report. I am particularly grateful for the coperative approach demonstrated by my colleagues, the other 10 members of the committee, in seeking to ensure that the welfare of children and young people is the paramount consideration in all matters involving the children and youth of New South Wales. I am also grateful for the assistance of the committee secretariat: the manager Mr Ian Faulks, committee officer Ms Violeta Brdaroska, assistant committee officer Ms Susan Tanzer, assistant committee officer, and former assistant committee officer Carolyne Allen. I commend this report to Parliament.

Mr WEBB (Monaro) [11.09 a.m.]: I support the comments made earlier by the chair in relation to the report of the Committee on Children and Young People entitled "Amendments to the Commission for Children and Young People Act 1998" and the "Commission for Children and Young People Regulation 2000 Regarding Employment Screening". As the chair of that committee outlined earlier, the Commission for Children and Young People has played an important role in ensuring the provision of better employment conditions for young people.

To date the employment screening program that has been implemented has been successful. Subsequent amendments that have been proposed by the committee—amendments which I support—will result in a better screening process. All employers and those working with children and young people have to go through some form of screening process. The amendments proposed by the committee will enable employers to better fulfil their obligations, thus providing adequate protection for children and young people in the community and the workplace.

Report noted.

NATIONAL PARKS AND WILDLIFE AMENDMENT (TRANSFER OF SPECIAL AREAS) BILL

Bill introduced and read a first time.

Second Reading

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [11.12 a.m.]: I move:

That this bill be now read a second time.

The special areas, which are referred to in the long title of the bill, are tracts of land surrounding the water storages for the greater Sydney, Blue Mountains and Illawarra regions. Together with parks and reserves that have been established under the National Parks and Wildlife Act 1974, they comprise an extensive and largely contiguous band of unspoilt bushland that protects our catchments and water quality. This Government is committed to the protection of drinking water quality as well as the protection of the ecological integrity of natural areas through the management of special area lands. In accordance with section 45 of the Sydney Water Catchment Management Act 1998, I undertook a review of the special areas lands.

The purpose of the review was to determine whether the objectives of the Sydney Catchment Authority, in relation to the future management of the special areas, would be more effectively attained if the lands concerned were vested in the Minister administering the National Parks and Wildlife Act. Subsequently, on 26 June 2001, I determined that the lands within the Warragamba, Katoomba, Blackheath, Woodford, O'Hares Creek and part of the Shoalhaven special areas should be transferred from the authority to the National Parks and Wildlife Service. This will result in around 40,000 hectares being added to the Blue Mountains and Kanangra Boyd national parks, increasing their area by approximately 15 per cent. As the member for the Blue Mountains, I am particularly pleased to see these park additions take place.

These transfers are consistent with Peter McClellan's Sydney Water inquiry recommendations. He recommended that the special areas be declared as national parks or nature reserves and that the National Parks and Wildlife Service should manage them both for water quality and for broader ecological considerations. The addition of the special areas to the National Park Estate will ensure the future protection of these water catchments and represents a major conservation benefit for New South Wales. I understand that the Blue Mountains special areas contain relatively undisturbed native vegetation communities, which support a rich diversity of native plant and animal species. They include a number of rare and endangered species, such as the spotted-tail quoll, barking owl and red-crowned toadlet. They also contain a number of known Aboriginal sites.

A large proportion of the approximately 258,400 hectare Warragamba Special Area is already reserved as part of the National Park Estate. In fact, this special area, which is part of one of the largest conservation reserve systems in Australia, contains the Nattai and Kanangra-Boyd wilderness areas. The Warragamba Special Area contains a highly diverse range of native plants and relatively intact habitat areas. Of particular significance, the remaining portion of the Warragamba Special Area that is to be transferred contains some vegetation communities that are inadequately protected, such as porphyry box woodland. This particular vegetation community is of high conservation priority because it is highly fragmented and its survival is under threat from clearing.

The O'Hares Creek Special Area contains a highly diverse array of intact and undisturbed vegetation communities and habitats, which supports great species richness. The transfer and reservation of this area will protect vegetation communities of high conservation value, such as Woronora Upland Swamp. This special area also contains a number of Aboriginal sites, and has been included on the register of the National Estate. In particular, the inclusion of this area within the National Park Estate will improve the long-term viability of regional biodiversity.

Catchment management is about the effective co-ordination of the management of ecological and natural resource management issues. It is, therefore, this Government's intention that both the National Parks and Wildlife Service and the Sydney Catchment Authority will jointly manage the special area lands. Joint management will ensure that both the Service's specialist skills in ecosystem management and biodiversity protection and the authority's specialist skills in the management of water supply catchments will be utilised in the management of these areas. It is in fact a current requirement of the Sydney Water Catchment Management Act that both the service and the authority must, as joint sponsors, prepare a plan of management for any lands that are declared as a special area.

The special areas strategic plan of management is one such plan that has been prepared under this Act. It applies to a number of special areas, including some of the areas that are to be transferred. An integral part of this plan is a joint management agreement, which determines the joint management arrangements and the individual responsibilities of both the service and the authority for the lands to which this plan applies. The Sydney Catchment Authority currently owns the majority of the land within the special areas that is to be transferred. The authority, however, will not be required to transfer the entirety of special area lands currently under its control. Lands within the special areas that are required by either the authority or Sydney Water Corporation to operate and meet their respective water supply functions will form an operating envelope and will not be transferred.

It is anticipated, for example, that the operating envelope will contain major infrastructure, such as water storages, dams and associated infrastructure. An in-principle agreement between the authority and the service has already been reached to fund the management of the transferred special areas lands. The authority will provide the service with an annual grant of $2.73 million, which is referred to in the service agreement between the two agencies. Honourable members will recall that one of the purposes of the recent Sydney Water Catchment Management Amendment Bill was to authorise the making of these annual grants.

With respect to the actual transfer of special area lands, both the authority and the service have prepared an indicative timetable to transfer the special areas lands that were subject to my determination. It is anticipated that parts of the Warragamba Special Area may be transferred as early as December this year, with the remainder proposed to be transferred by May 2002. The Blue Mountains special areas, which encompass the Katoomba and Blackheath special areas, are proposed to be transferred by April 2002, and the O'Hares Creek and the portion of the Shoalhaven Special Area identified for transfer are proposed to be transferred by June 2002.

Turning to the specific legislative amendments proposed in the bill, this is essentially an enabling bill to facilitate the future funding and joint management of these transferred special area lands. Amendments of an administrative nature are proposed to both the National Parks and Wildlife Act 1974 and the Sydney Water Catchment Management Act 1998. I will speak firstly about the amendments to the National Parks and Wildlife Act. As I have already said, the Sydney Catchment Authority is to fund the National Parks and Wildlife Service to manage the transferred special areas. The amendments proposed in the bill will ensure that the National Parks and Wildlife Fund is able to receive payments from the Sydney Catchment Authority, and pay moneys from that fund, for the implementation of special area plans of management.

Although major operational infrastructure required by the Sydney Catchment Authority and the Sydney Water Corporation will be included in an operating envelope, which is not to be transferred, some minor infrastructure such as weather stations, rainwater gauges and survey markers will likely be included in the areas to be transferred. The water authority's existing interests in relation to such infrastructure will be protected to enable its operation within a transferred special area that is reserved or dedicated under the National Parks and Wildlife Act. However, the amendment also creates the power for the Minister for the Environment to grant a lease, licence or easement to enable a water authority to exercise its functions where necessary within a park or reserve that is also a special area. It is my intention that any lease, licence or easement granted to a water authority would be for nominal consideration. These interests may only be granted subject to their identification in the relevant reserve's plan of management.

Specifically, the plan of management will need to identify the affected lands as well as the purpose, term and person to whom the interest is to be granted. The intent is to ensure the permissibility of a water authority's functions, for example, where an existing interest ceases or is modified, or where new minor operational infrastructure is required. Further, the identification of a proposed activity in a plan of management enables its public exhibition and ensures the public can comment. I would like to assure honourable members that environmental safeguards will apply where a water authority may need to alter its existing operating infrastructure or establish new minor operational infrastructure. Where a water authority, as a proponent, needs to undertake new works on lands reserved or dedicated under the National Parks and Wildlife Act, I am obliged as the determining authority to apply part 5 of the Environmental Planning and Assessment Act 1979 in the consent process.

I turn to the proposed amendments to the Sydney Water Catchment Management Act 1998. I have referred to the fact that under the Sydney Water Catchment Management Act the Director-General of National Parks and Wildlife is the joint sponsor of special area plans of management required under this Act. The amendments will ensure that as joint sponsor the Director-General of National Parks and Wildlife also has the power to jointly implement a special areas plan of management. I would like to reiterate that the benefit of this joint management is that it brings together the skills of the joint sponsors to ensure the protection of ecological health and water quality in our catchments. From time to time it will be necessary for the joint sponsors to engage contractors or other government agencies to assist them in the implementation of a special areas plan of management, and the proposed amendment will create the power to enable that to occur.

This is a necessary and sensible bill, which will enable the transfer of a number of special area lands for their addition into the National Park Estate. The bill will benefit many sectors within the community by ensuring that our catchments and water quality are adequately managed and protected by both the Sydney Catchment Authority and the National Parks and Wildlife Service. The fundamental result of both this bill and the transfer of those special areas will be positive for the protection of both our drinking water quality and biodiversity, and for the expansion of our system of protected areas in New South Wales. I commend the bill to the House.

Debate adjourned on motion by Ms Seaton.

CRIMES AMENDMENT (GANG AND VEHICLE RELATED OFFENCES) BILL

Second Reading

Debate resumed from 24 October.

Mr HUNTER (Lake Macquarie) [11.24 a.m.]: I am pleased to support the Crimes Amendment (Gang and Vehicle Related Offences) Bill. The Government introduced this bill as a multifaceted approach to gang-related criminal activity. This bill builds upon legislation, which has been debated in recent times in this House, relating to gang sexual assaults and other police and crime prevention initiatives put forward by the Government. A few weeks ago the Premier foreshadowed that the Government is serious about tackling gang crime. I note that this bill is part of a number of legislative amendments that specifically target gang-related crime in the State. As I said earlier, the first part of that legislative reform was the Crimes Amendment (Aggravated Sexual Assault in Company) Act 2001, which commenced operation on 1 October.

Item [4] of schedule 1 to the bill increases the penalty for assault occasioning actual bodily harm from five years to seven years if the offence is committed in company. Item [7] increases the penalty for demanding property with intent to steal from 10 years to 14 years if the offence is committed in company. Extending the range of offences that attach the "in company" element will assist to tackle criminal gang issues and strengthen the existing developed and settled law. By increasing the maximum penalty for these types of offences, a clear message is sent to the judiciary that the community expects that offenders who commit these offences will be dealt with more severely than they have in the past. When I visit and meet with community groups in the electorate of Lake Macquarie, the leniency of sentences being handed down is constantly brought to my attention. The Government is working to improve that situation. I am sure that the constituents of my electorate will be pleased with this bill.

Another important legislative reform in the bill relates to the offence of kidnapping. Again the bill introduces "in company" as an aggravated element of kidnapping and makes other reforms to that offence. As to the penalty for the offence of kidnapping, which is contained in section 90A of the Crimes Act 1900, the bill provides that offenders are liable to 20 years imprisonment if they detain a person for advantage or 14 years if they prove that the person taken was liberated without having sustained any substantial injury. The people of this State will welcome the reforms in the bill. I refer to the overview of the bill, which states:

> The objects of this Bill are:
>
> (a) to make it an offence, with more severe penalties, to commit in company with one or more other persons the existing offences of discharging loaded arms with intent, using or possessing a weapon to resist arrest, malicious wounding or infliction of grievous bodily harm, assault occasioning actual bodily harm and demanding property with intent to steal, and
>
> (b) to make it an offence, with a more severe penalty, to kidnap a person in company with one or more other persons or to kidnap a person where the person sustains actual bodily harm, and to make it an additional offence, with a greater penalty, to do both, and
>
> (c) to increase penalties for the offences of stealing motor vehicles without motors, stealing motors and stealing identification plates for motor vehicles, of receiving stolen motor vehicles or motor vehicle parts and of being in possession of motor vehicles or motor vehicle parts that might reasonably be suspected of having been stolen or otherwise unlawfully obtained, and
>
> (d) to create a specific offence of car-jacking, and
>
> (e) to make it an offence to threaten or intimidate any person to influence the person to withhold material information from police about an indictable offence, and
>
> (f) to make it an offence to recruit a child to engage in criminal activity, and
>
> (g) to enable the new offences to be dealt with summarily in certain circumstances.

The objects of the bill, as I have read them, will enable my constituents to rest a little easier. A number of them have made representations to me during the time the Labor Party has been in government, particularly in more recent times, about strengthening police powers and improving laws so that we can tackle gang-related crime. I should also like to read the explanatory note of the amendments to the Crimes Act, which are set out in schedule 1. The explanatory note reads:

Offences in company

Currently, the *Crimes Act 1900* provides for separate offences, and higher penalties, where particular offences are committed in company with one or more persons (for example, robbery).

Schedule 1 [1]–[4] and **[7]** create separate offences with higher penalties if the following offences are committed in company with one or more persons:

(a) discharging loaded arms with intent to cause grievous bodily harm or to resist or prevent lawful apprehension or detention (the maximum penalty rises from 14 years imprisonment to 20 years if committed in company),

(b) using, attempting or threatening to use or possessing an offensive weapon or instrument, or threatening injury to person or property, with intent to commit an indictable offence or to prevent or hinder a police officer from investigating an act or circumstance calling for investigation (the maximum penalty rises from 12 years imprisonment to 15 years if committed in company),

(c) maliciously wounding or inflicting grievous bodily harm on any person (the maximum penalty rises from 7 years imprisonment to 10 years if committed in company),

(d) assault occasioning actual bodily harm (the maximum penalty rises from 5 years imprisonment to 7 years if committed in company),

(e) demanding property with menaces or force (the maximum penalty rises from 10 years imprisonment to 14 years if committed in company).

Kidnapping

Schedule 1 [5] inserts a new kidnapping offence which retains the elements of the existing offence while updating its language and concepts and creates separate offences with higher penalties in the following circumstances:

(a) the offence is committed in company or actual bodily harm is sustained by the alleged victim (maximum penalty rises from 14 years imprisonment to 20 years),

(b) the offence is committed in company and actual bodily harm is sustained by the alleged victim (maximum penalty rises to 25 years imprisonment).

Schedule 1 [6], **[14]** and **[16]** make consequential amendments.

Motor vehicle theft and other offences

Schedule 1 [9] has the effect of making it an offence, with a penalty of 10 years imprisonment, to steal a motor vehicle that does not have a motor or a motor intended for use in a motor vehicle or any part of such a motor vehicle containing, or consisting of, an identification plate. Such thefts can be carried out for the purposes of reassembling stolen motor vehicles and stolen parts from different vehicles to be sold as "rebirthed vehicles". The amendment treats motor vehicles without motors, and motors and identification plates, in the same way as motor vehicles for the purposes of the car stealing offence contained in section 154AA of the Principal Act. Currently, the theft of goods other than a motor car is subject to a lesser penalty. **Schedule 1 [8]** makes a consequential amendment.

Schedule 1 [11] increases, from 10 years imprisonment to 12 years imprisonment, the penalty for knowingly receiving a stolen motor vehicle (including a motor vehicle that does not have a motor) or a motor vehicle part. **Schedule 1 [12]** makes a consequential amendment.

Schedule 1 [17] increases, from 6 months imprisonment or a fine of 5 penalty units to imprisonment for 1 year or a fine of 10 penalty units, or both, the penalty for being in possession of, or giving custody to another person of, a motor vehicle (including a motor vehicle that does not have a motor) or a motor vehicle part, that may reasonably be suspected of having been stolen or otherwise unlawfully obtained. **Schedule 1 [18]** makes a consequential amendment.

Car-jacking

Schedule 1 [10] inserts proposed section 154C which makes it an offence to assault a person with intent to take a motor vehicle, and, without the consent of the owner or person in lawful possession of the motor vehicle, to take the motor vehicle and drive it or take it for the purpose of driving it. It also makes it an offence, without the consent of the owner or person in lawful possession of a motor vehicle, to take the motor vehicle and drive it or take it for the purpose of driving it when a person is in or on it. The maximum penalty for both offences is 10 years imprisonment. A separate offence is committed if the offences are committed in company with another person or persons, or while armed with an offensive weapon or instrument, or if the offender maliciously inflicts actual bodily harm on the person (maximum penalty 14 years imprisonment).

Many people fear car-jacking, and a number of incidents have been highlighted. Most people now ensure that their vehicles are locked when they are driving. Having been a member of Staysafe , the road safety committee of Parliament, I know that driving a vehicle when it is locked raises safety concerns. However, that is the way people in the community now feel, and I am sure many of them will be pleased that the bill introduces the offence of car-jacking. The explanatory note continues:

Threatening or intimidating victims or witnesses

Schedule 1 [13] inserts proposed section 315A which makes it an offence to threaten to do or cause, or to do or cause, any injury or detriment to another person intending to influence a person not to bring material information about an indictable offence to the attention of a police officer or other appropriate authority (maximum penalty 7 years imprisonment).

Recruiting children to engage in criminal activity

Schedule 1 [15] inserts proposed section 351A which makes it an offence for an adult to recruit a child to engage in criminal activity (maximum penalty 10 years imprisonment). Criminal activity will mean conduct that constitutes a serious indictable offence. Crimes Amendment (Gang and Vehicle Related Offences) Bill 2001

Schedule 2 Amendment of other Acts

Schedule 2.1 and **2.2** make consequential amendments to the *Bail Act 1978* and the *Child Protection (Offenders Registration) Act 200*0.

Schedule 2.3 [1]–[3] amend the *Criminal Procedure Act 1986* to enable offences created by the proposed Act (relating to car-jacking, threatening victims etc, and recruiting children) to be dealt with summarily in certain circumstances (reflecting existing procedures for other similar offences).

Many of the issues tackled by this bill and other bills introduced by the Government over the past few years have been raised with me by the community both during visits to community groups and in my office. By increasing the maximum penalties for these types of offences the Government is sending a clear message to the judiciary that the community expects offenders who commit these offences to be dealt with more severely than they have been in the past. This is a recurring issue that has been brought to my attention time and again, most recently in a letter from a chamber of commerce in my electorate. This bill and the other bills to which I referred go a long way towards addressing the concerns raised. I am pleased to have had the opportunity to speak on the bill and to put forward some of the concerns that have been raised within my constituency.

Mr O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [11.39 a.m.]: The bill seeks to deal with serious issues within our community. Serious issues that strike at the heart of safe communities deserve a serious and effective response from government. My concern is that the legislation does not necessarily achieve what it sets out to achieve. In a thoughtful contribution to the debate on Wednesday evening the honourable member for Liverpool made the point that the only time the word "gang " is mentioned in the bill is in its title, which is contrary to the way in which the Premier has handled this issue. In every paragraph of every media release issued by the Premier and in every interview conducted by the Premier every second word is "gang". For the reasons given by the honourable member for Liverpool on Wednesday evening, this bill is not a pop response, it cannot be a pop response and it should not be a pop response no matter what sort of mileage the Premier seeks to get out of it.

My concern is that the legislation has more to do with an election advertisement for the Australian Labor Party in March 2003 showing that a series of sentences have been increased than with cleaning up crime rates. My concern with the Premier's approach, which was reflected in the comments of the honourable member for Liverpool, is that there is more spin on this than there is on Shane Warne's mystery balls. I want real responses to real problems. As the member for Ku-ring-gai I am particularly interested in the increase in penalties for receiving stolen vehicles or vehicle parts. The New South Wales Bureau of Crime Statistics and Research recorded that last year the statewide increase in motor vehicle theft was 8.2 per cent, but in the electorate of Ku-ring-gai, which runs from Roseville to Wahroonga, it was 51 per cent. We became the car theft capital of New South Wales. It is an enormous problem. I am committed to working with whoever sits opposite to try to resolve this problem for my community.

Will doubling the penalties for receiving stolen vehicles or vehicle parts reduce the incidence of motor vehicle theft in my electorate? Simplistically, the easiest way to reduce that dramatic increase in car theft recorded last year in Ku-ring-gai would be more effective policing. The Opposition will have this argument with the Labor Party until the next election. We do not believe we will resolve the core issues at the heart of this type of legislation unless we effect better community policing across all communities—I know that is what is supported in my electorate—and that is why I have some doubts about whether doubling penalties for receiving stolen vehicles or vehicle parts will do anything to stem the dramatic increase in car theft recorded last year in my electorate. As a number of members from my side of the Chamber have already said, and as the honourable member for Lake Macquarie mentioned briefly, the legislation will be ineffective if it is not given force by the judiciary.

The Attorney General well knows that there is community disquiet about perceived community standards on penalties and those handed out by magistrates and judges in this State. We all understand the

principle of judicial independence, but just as I believe it would be more effective for residents in my electorate and residents in other parts of the State to have better policing to stop the root cause of motor vehicle theft, unless the judiciary are prepared to hand out appropriate penalties the legislation will have no impact. Ultimately, the legislation increases maximum penalties. There is no guarantee that the legislation will increase average sentences, and that is a public issue about which even the Chief Justice recently expressed concern in relation to certain offences. In not opposing the legislation I reiterate my concern that, notwithstanding the best intentions of the Attorney General, the legislation has been hijacked for political reasons. I hope it achieves its aims. My community hopes it will drive down the rate of motor vehicle theft in Ku-ring-gai. But unless local police or the local judiciary start to take a tougher line, that will not occur.

Mr BARTLETT (Port Stephens) [11.45 a.m.]: I support the Crimes Amendment (Gang and Vehicle Related Offences) Bill. It is pleasing to know that it has the support of both sides of the House. I have had two major ongoing concerns for the past two years. The perception in the community is that groups of local young people standing around the street corner are a threat to society, but gentlemen like myself with bald heads and caps on the right way standing around discussing politics are not a threat. I have had meetings with the Nelson Bay Town Improvement Committee, local police, and the local media about the behaviour of groups of local young people and what we can do about it. I knew that legislation dealing with gangs was in the pipeline, but the legal definition of "gangs" is "in company".

I take up the comments of the previous speaker, because the electorate of Port Stephens is also suffering from an increase in motor vehicle theft. For many young people isolation is a problem. For example, young people in Medowie and Raymond Terrace are removed from the action in, say, Newcastle. It seems that young people steal cars in Medowie, Raymond Terrace and other parts of my electorate, drive them to Newcastle, deposit them in Newcastle and then go out on the town. Motor vehicle theft in my electorate may be the consequence of living in isolated communities and the lack of transport options for young people. The object of the bill, inter alia, is to make it an offence, with more severe penalties, to commit in company with one or more other persons the existing offences of discharging loaded arms with intent, using or possessing a weapon to resist arrest, malicious wounding or infliction of grievous bodily harm, assault occasioning actual bodily harm and demanding property with intent to steal. Another object of the bill relates to kidnapping.

However, the object of the bill that is of particular interest to me and my community is object (c), which relates to the increase in penalties for the offences of stealing motor vehicles without motors, stealing motors and stealing identification plates for motor vehicles, or receiving stolen motor vehicles or motor vehicle parts and of being in possession of motor vehicles or motor vehicle parts that might reasonably be suspected of having been stolen or otherwise unlawfully obtained. Object (f), which makes it an offence to recruit a child to engage in criminal activity, is also of particular interest to the Port Stephens electorate.

The Hunter has experienced shocking instances of both death and injury as a result of young people stealing motor vehicles. In the near future the parents of a son and his fiance who were killed in a collision with a motor vehicle that had been stolen by a young offender will hold a meeting in the Hunter. Recently at Williamtown a 15-year-old travelling in a stolen car died. In such circumstances young people are a danger to other people as well as to themselves. We are experiencing these sorts of things in the Hunter.

I am concerned about young children who are encouraged to steal cars and then big-note themselves about it. The bill tries to address the problem of peer group pressure in small isolated communities such as Port Stephens. It is aimed at people who recruit children to engage in criminal activity. As has been said before, the penalties for most offences dealt with by this bill have been increased. However, not all penalties have been doubled, as was mentioned before. The penalty for the offence of discharging a loaded firearm is increased from 14 years imprisonment to 20 years imprisonment, and the penalty for using or possessing a weapon to resist arrest or to commit an indictable offence is increased from 12 years imprisonment to 15 years imprisonment.

We are sending to the judiciary the message that Parliament reflects community concern, and that members of the community feel that community standards are not being enforced by the judiciary. This bill is one way Parliament can send a message to the judiciary. By increasing the maximum penalties, we are giving the judiciary more penalty options while at the same time perhaps raising the average sentence imposed. I am sure the Attorney-General will look at the matter over time to see if we have achieved that goal. I shall conclude by referring to the definition of "in company", given that previous speakers attacked the definition of "gang".

The term "in company" is not defined in legislation but exists as a legal principle at common law. It refers to situations in which a person participates in an offence with another person or persons. There will be

lengthy arguments in the courts if we try to define "gangs" in legislation. The criminal law recognises that a crime committed by more than one person is more serious than when an offender acts alone. Specifically, the law recognises that offenders acting in company, that is, in a gang, may constitute an aggravated version of the offence. That is currently the case with the offences of robbery, break and enter, and sexual assault. This bill is one of a number of bills that have been introduced into Parliament. I am interested in future legislation as it affects Port Stephens, as well as the State. This bill has my total support.

Ms HODGKINSON (Burrinjuck) [11.53 a.m.]: I support the bill, the purpose of which is to provide increased penalties for certain crimes committed in company. Its aim is to create new offences involving car theft, intimidation of victims or witnesses who would otherwise bring material information to police, and recruiting children to engage in criminal activity. How could I not support a bill that provides increased penalties for these dreadful crimes? I point out that this applies as much to country electorates as it does to city areas. Offences that occur in urban areas are probably more public and they are more likely to be reported in the media, particularly the morning media, which influences public responses for the day. In rural cases crimes of a dreadful nature often go unreported, and I shall refer to the reasons for that later in my speech.

For the record, the background to the bill is that it follows in the wake of increasing reports of gang-related criminal activity and, more specifically, the recent gang-rape assault on two teenage girls. Briefly, the bill creates new offences and increases the maximum penalties for certain crimes committed in company, including discharging loaded arms with intent, using or possessing a weapon to resist arrest, malicious wounding, assault occasioning actual bodily harm and demanding property with intent to steal. It also creates a new kidnapping offence and increases the maximum penalty from 14 years imprisonment to 20 years imprisonment if the offence is committed in company or actual bodily harm is sustained by the victim.

The bill also creates a new offence of car-jacking, with a maximum penalty of 10 years imprisonment or 14 years imprisonment when committed in company or while armed. The penalties for the new offence of car-jacking are equivalent to those for vehicle theft. I believe that car-jacking is a much more serious offence than car stealing and definitely warrants a greater penalty for such a dreadful crime. Indeed, I support the amendment that will be moved in Committee by the honourable member for Epping, that is, on page 6, schedule 1 [10], omit "14 years" and insert instead "20 years". We all remember the terrible case of the little Vietnamese baby who was left in a vehicle while his mum went to do some grocery shopping and the vehicle was subsequently car-jacked. The story shocked the nation, and it shocked me as a mother of a young child. I was shocked that this sort of thing could still happen in an urban area. Many people were shocked that the baby was not found for a long time and then was found dead. I felt it very deeply.

The maximum penalty for such an offence should be more than the maximum penalty for car stealing. Stealing a vehicle with someone inside—whether it is a baby, a person starting out in life, or a person more advanced in their life—is a much more serious offence, and I believe the penalties should be greater. I will definitely be supporting the amendment foreshadowed by the honourable member for Epping. The bill creates the new offence of stealing motor vehicle parts; it provides increased penalties for receiving stolen vehicles or vehicle parts; it makes it an offence to intimidate someone so that they withhold material information from police about a serious crime; and it makes it an offence to recruit a child to engage in criminal activity.

Along with many members of the community, I have great concern about these serious issues. Interestingly, the Deputy Leader of the Opposition said that the word "gang" appears only once in the bill. He made a valid point. Is the inclusion of the word "gang" in the title of the bill a Government stunt so that the Premier can wax lyrical come election time? We must seriously consider such legislation and not overpoliticise such serious criminal offences. Similarly, we should ensure that penalties are increased. Surely that is the best way to assist the prevention of crime in the first place. To put it simply, we can have as much legislation as we like but there must be sufficient police to enforce the law in terms of these serious crimes.

I relate this back to my electorate of Burrinjuck. Concern has been expressed to me about a lack of policing in Marulan, Tarago, Crookwell, Batlow and Boorawa. People in villages and towns throughout my electorate have expressed concern about the lack of policing in those areas. Many towns and villages do not have a police officer permanently stationed in those towns and villages. Recently the Goulburn Probus group told me that the fire station at Marulan was broken into. The police were called, and they said that they would be there as soon as possible. However, it took four hours for a police officer to get there, because he had come from Tarago. Police numbers in country areas are a disgrace. Concern has been expressed also about the reduction of 24-hour policing across my electorate generally and in Yass in particular. Many women in my electorate have expressed concern about rapes not being reported to police.

Concern has been expressed to me that, without 24-hour policing, women will not feel secure about reporting rapes when they happen. In some towns or villages women may be left to ring a telephone number because the police station is closed. Women who have been put through that dreadful experience will not go ahead and ring the number. They may feel uncomfortable about ringing a number, the destination of which is unknown to them. The person who answers the call could easily be a male. The victim of such a serious offence would not feel comfortable doing that. I conclude by stating that I propose to support the amendments foreshadowed by the honourable member for Epping. I also place on record my very serious concerns about the lack of policing in rural areas, particularly the villages in the electorate of Burrinjuck, and the need to ensure that 24-hour policing continues to be a priority.

Mr ASHTON (East Hills) [12.00 p.m.]: I support the bill. In the electorate of East Hills there is a perception at least that criminal behaviour committed in company is occurring more and more often. To use a term that has been used several times during the course of the debate, criminal behaviour "happening in gangs" is of considerable concern to most members of the New South Wales Parliament. If I might relate a story without being pedantic—

Mr Hartcher: Please do.

Mr ASHTON: I thank the honourable member for Gosford for the applause. It was once a very Australian tradition that if there was a bit of a blue on, in the sense of a robbery or crime, it was usually committed by one person, or perhaps two people. The participants were charged individually, they fronted the court individually and they were sentenced individually. Australia and the western world in general has entered a period in which people prone to criminal behaviour have worked out that committing an offence in company with others will provide them with a better chance of success, a better chance of evading capture and, if caught, a better chance of evading identification. Those who commit offences in company are able to provide alibis for each other.

As the sexual assault in company legislation that passed by this House a couple of weeks ago has done, this amending legislation will make it plain to those who commit an offence in company with others that such an offence is deemed to be more serious than a similar offence carried out by one person acting alone. No criminal act is acceptable. Every crime should attract a degree of punishment. Offences carried out in company with others makes things more difficult for the victim—be it the offence of robbery, car-jacking, kidnapping or vehicle rebirthing. The offenders may threaten the victim. It is bad enough if one person says, "Don't give evidence against me, mate. If you do you will find out what I can do." It is even worse if six, eight or 10 people threaten a victim over a period of time.

I commend the Government for recognising that any criminal activity carried out in company represents a more serious offence. That view has the support of my constituents in the electorate of East Hills. Having said that, I believe it is important to get the message through to the judiciary. I believe all members of this House would agree with that. As every member of Parliament would be aware, there is a separation of powers and it is for the judiciary to decide what is the appropriate punishment or term of imprisonment for persons found guilty of having committed a crime in company. As with the sexual assault in company legislation, this bill will increase penalties significantly. We need to convey the message to the judiciary that, if members of the community are to feel confident working with police to bring offenders to trial, it is incumbent on the judiciary to make sure such offenders receive a sentence at the upper end of the scale, if not the maximum sentence—life imprisonment in some instances and 20 to 25 years in others.

The judiciary should not merely take into account what might be regarded as the "average" sentence. The Opposition appears to have been offended by the inclusion of the word "gang" in the title of the bill when that word appears perhaps only once or twice in the body of the bill. Any effort to strictly define the word "gang" may produce an outcome that we do not want. If we try to define what is a "gang" in every section of and schedule to the bill, it may be that a group of offenders could escape the impact of this legislation. By way of example, people often refer to "bikie gangs" in certain circumstances. If we try to define what constitutes a bikie gang, for example, do we have to have a title for them? Do they have to have a clubhouse and a membership form? Do they have to have some other recognisable form of membership?

Reference has been made to various Asian gangs that may or may not exist in parts of Sydney. Do such groups have to operate out of particular premises? Do its members have to have a distinguishing tattoo to join such a gang? If we attempt to define the term too accurately, offenders operating in company may slip through the net. I believe the term "gang" can be loosely applied, and that will enable the judiciary to take into account

the fact that the offence was committed in company and thus impose a much harsher sentence. That is a very important aspect. We should not attempt to be too pedantic. The Opposition should not think the word "gang" has been thrown into the bill in an attempt to gain a political advantage. It appears that some members of the Opposition have not read and understood the terms of the bill. Those who commit criminal offences in company—for example, discharge loaded firearms with intent to cause grievous bodily harm or resist arrest when armed or in company with others—will be referred to as members of a "gang" by the prosecutor and the judge will probably determine that they are a gang.

Mr Hartcher: The jury will decide.

Mr ASHTON: A competent prosecutor will ensure that the jury will decide that. "In company" means just that. It does not have to be 10 people. We are not talking about a company of 20 or 30 soldiers; we are talking about more than one person. Those who commit such an offence will be liable to maximum penalties of imprisonment for up to 25 years. Importantly, offences relating to motor vehicles have been added to this bill. In the past few days I had cause to try to obtain information about a situation in my electorate in respect of which the numbers on a registration plate were provided, together with a description of the vehicle involved in an offence. The police, on investigating the offence, found that the number plate did not match the vehicle described as having been involved in the incident in question. The immediate assumption would be that the vehicle had been rebirthed. The vehicle may have been stolen. At the very least the number plates may have been stolen.

The bill provides for increased penalties for offences relating to rebirthed vehicles. It should be borne in mind that often rebirthed cars are not new cars fitted with new number plates and new registration compliance stickers. In some instances an offender will buy a motor and fit it to a stolen chassis. Some people buy car parts at auction that have been stolen but have been accepted by the auction room in good faith. Criminals often attend auctions, buy a vehicle and replace the engine. Other vehicles have been chopped and rejoined to produce a new vehicle. Any attempt to do something about penalties for rebirthed vehicles has great merit and reflects the Carr Government's genuine commitment to address penalties for a whole range of offences. As I said, the terms of imprisonment for this offence have been increased.

The honourable member for Burrinjuck referred to a car-jacking case that is before the courts. Given that the matter is before the courts I will not speak at length about it except to observe that it is a very tragic case. Other cases may not have as tragic an outcome but if a person jumps into another's car and takes off with the owner still in the car, more than the offence of car-jacking is involved: It involves car-jacking and kidnapping, or deprivation of liberty. The owner has virtually been kidnapped, to use a term that was first used 60 or 70 years ago. The maximum penalty for the offence of kidnapping a person in the course of stealing a vehicle has been increased to 14 years imprisonment.

A very important aspect of the bill is that it provides for an offence of threatening or intimidating victims or witnesses. I know of an incident that occurred recently in my electorate involving police officers who detained a suspect. The evidence clearly indicated that the suspect was at a particular place at a time when a crime was committed. Without putting too fine a point on the matter, it was very much an open and shut case. But word circulated very quickly that people had better not give evidence against the suspect or else certain things might happen to them. The message of heavier penalties for serious crime should be sent not just to the judiciary but also to the media.

I hope that the media will play a more responsible role than falling for the suggestion that heavier penalties are being introduced as some type of electioneering ploy. In the first place, the next State election is not due for 18 months. In the second place, the reason for this legislation is that the media, the Opposition and the community have demanded that the Government provide stronger penalties and that police powers be extended to enable police officers to attack serious crime and arrest people who have committed serious indictable offences, not to enable the police to more easily arrest young people dressed in black outfits who stand around in front of milk bars doing nothing wrong.

The community should understand that it has a role to play. Evidence should be given with confidence. The crooks also should understand that if they try to intimidate witnesses to prevent them from giving evidence, they will be bundled away to gaol for lengthy periods. Even people who may not have had anything to do with the crime but who intimidate or threaten witnesses by knocking on doors and saying, "If you give evidence against my brother …", or "If you give evidence against a relative of mine …", or "He didn't do it because he was with us and you had better not say anything", et cetera, will be bundled away to gaol. I know that the community will support that action. Because the honourable member for Lake Macquarie dealt in detail with the actual offences to which this bill will apply, I will not take up the time of the House by referring to them again.

In conclusion, I refer to an aspect that has become a trend in the commission of crime—a trend that has probably been picked up from overseas; probably the United States of America—namely, the recruitment of children for criminal activity. There would not be one member of this House who is not aware of some criminal communities that use children who are too young to be charged with serious indictable offences as mules or couriers to pass on information or carry orders for the delivery of drugs. That practice is not much different from the practice years ago of starting price [SP] bookies who used young kids to carry messages back and forth between the SP bookie and the punters.

The Government is not suggesting that these young children should be dragged away and put in gaol for a period of 10 years or more; rather, people who recruit young people and are responsible for young people being engaged in criminal activity from a very young age ought to be very severely dealt with. The implementation of the provisions of this bill will go a long way towards reining in offences that are being committed by gangs. As I said earlier, the bill as worded—which does not have the word "gang" repeated 100 times throughout its provisions—provides greater, rather than less, power for the courts to take strong action against crime. I support the Government's Crimes Amendment (Gang and Vehicle Related Offences) Bill and commend it to the House.

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [12.13 p.m.], in reply: I thank all honourable members who contributed to the debate on this important legislation, which will enhance the laws applying to gang activity. At this stage I believe I should address in particular some misapprehension and misunderstandings that were exhibited by honourable members opposite during the debate. I was particularly distressed that the honourable member for Gosford and the honourable member for Epping fail to understand some general principles of sentencing as well as the specific elements of the new offence of car-jacking that this bill introduces, especially in its relationship to existing larceny laws.

The honourable member for Gosford was supported by other members opposite in his comments about sentencing. He claimed on the basis of a very few cases that not enough was being done to penalise criminals and that increased sentences are not the answer anyway. Apart from a basic logical inconsistency in his proposition about sentencing—on the one hand, that longer sentences would not do any good and on the other hand foreshadowing an amendment to provide for longer sentences—his comments raised questions about the general principles of sentencing. In New South Wales there are various systems of sentencing in which judges and magistrates retain a discretion to impose an appropriate sentence within legislative boundaries and in accordance with settled principles. Those settled principles, together with maximum penalties prescribed by the Legislature, as well as, increasingly, sentencing guidelines promulgated by the Court of Criminal Appeal, guide—but do not dictate—the sentences that are ultimately imposed.

Given that sentencing is itself a very complex process that must balance principles of retribution, deterrence and rehabilitation, the Government takes the view—and this is hardly a revolutionary view—that this balancing process achieves the most desirable and just outcome when it is accompanied by judicial discretion. The purposes of criminal punishment and sentencing are various: the protection of society, the deterrence of the offender and others who might be tempted to offend, retribution and rehabilitation. Each of those purposes overlaps. None can be considered in isolation from the others when a judicial officer determines what is an appropriate sentence in a particular case. They are guideposts to the appropriate sentence and they are the most appropriate means whereby a sentence can be fixed when accompanied, as I said earlier, by the exercise of judicial discretion.

The main purpose of sentencing is the protection of the community from crime. However, the protection of the community does not justify a sentence that is entirely out of proportion to the seriousness of the offence that has been committed. The sentence has to reflect the objective seriousness of the offence. There ought to be a reasonable proportionality between the sentence and the circumstances of a crime. Quite recently in New South Wales in the case of *R v. Rushby* the judge pointed out that a sentence must be in accord with the general moral sense of the community. That is the law, and it is also commonsense. I repeat: A sentence must be in accord with the general moral sense of the community.

In November 1988 the New South Wales Bureau of Crime Statistics and Research issued a report that I suggest all members of the Opposition who are in any way serious about the representation they give to their constituents ought to read. I commend this very important report to the honourable member for Gosford. The report, entitled "Are the Courts becoming more lenient? Recent trends in convictions and Penalties in New South Wales Higher and Local Courts", shows that the bureau found that conviction rates in higher and local

courts in New South Wales were generally quite high compared to other places, in most cases ranging above 70 per cent and in some cases—for offences such as break and enter, robbery, fraud, and dealing or trafficking in opiates when dealt with in the higher courts—90 per cent or more. The only offence for which the conviction rate fell below 50 per cent was the offence of child sexual assault. Obviously that is because special evidentiary problems are inherent in prosecutions for that horrible offence.

The bureau also found that penalties imposed by the New South Wales higher and local courts had not become lighter in the period between 1990 and 1997. The percentage of people imprisoned in both jurisdictions remained stable or increased for each of the selected offences during the period between 1990 and 1997. The average prison sentence length imposed for each of the selected offences also generally remained stable in both jurisdictions during that period. The average prison sentence imposed for each of the selected offences generally remained stable in both jurisdictions during 1990 to 1997.

The average prison sentence decreased in only one of the nine selected offences in the higher courts, that was the offence of robbery, and in only one of the six selected offences in the lower courts, the offence of break and enter. The Bureau of Crime Statistics and Research suggested that in both cases the decrease was associated with an increase in the number of offenders being sent to prison. That is entirely consistent with the rate of increase of the number of people currently in prison. It has persistently risen over a number of years.

In its report the Bureau of Crime Statistics and Research found that despite the largely media-driven perception of court leniency, penalties have, if anything, become heavier since 1990. The bureau found that the courts also deal more harshly with offenders who commit serious crimes and who have more serious criminal records. That is exactly what one would expect and would think was reasonable, and that is what is persistently denied by members opposite. Maximum sentences exist as a matter of law and commonsense for the worst case of the category of offence committed. I cannot believe that the honourable member for Gosford does not understand that it is rare that a maximum sentence is imposed, because the majority of sentences for any category offence fall somewhere in the range of sentences available.

The maximum penalty prescribed by Parliament will, however, influence the median term of a sentence for an offence. If maximum sentences are increased, it is the normal circumstance that over time the median length of a sentence will increase. It is commonsense—and I have used that word a number of times, advisedly—that maximum sentences are rarely imposed, a fact one would never guess from listening to members opposite, because the maximum penalty is reserved for the worst case in any category of offence. The bureau has released more recent statistics for the years 1998 to 2000 which clearly establish that the courts are not becoming more lenient in sentencing.

The updated statistics indicate with respect to sentences in the higher courts that there has been generally an upward trend in the number of proven charges receiving a sentence of imprisonment and a generally stable trend in the higher courts of average length of prison sentences imposed. Those stable trends are equally evident in the lower courts. Lifting maximum penalties does send a message to the judiciary and will very likely result in an increased median sentence. Clearly that is so and it is on that point that the whole argument presented by members opposite collapses. The amendment proposed by the honourable member for Epping is about higher penalties. That proposed amendment is flawed, because it purports to do what the legislation will achieve in any case in the context of car-jacking and kidnapping offences. The legislation will achieve that through a rational process of tiered sentences following the arrangement of offences that has been established by the bill.

The honourable member for Gosford suggested vociferously that a penalty of 20 years is needed for car-jacking. That sentence is possible already under the Crimes Act and other legislation. The amendment to be moved by the honourable member for Epping seeks to restructure the proposed provisions relating to car-jacking to carry a maximum penalty of 20 years. The rationale for the offence of car-jacking is that it does not require an intention to permanently deprive, as does the offence of car stealing, which is a larceny offence. The Government has introduced the offence of car-jacking, which does not involve a necessary intention to permanently deprive an owner of a car and therefore may not fit the definition of "stealing", because the police and the Director of Public Prosecutions have found that the present kidnapping offences may suffice with a possible 20 year penalty.

However, where there is no element of detaining for advantage there can be difficulty in using existing car stealing offences, which rely on elements of larceny. This provision has been introduced for offences that may not adequately fit the technical definitions of "larceny" or "kidnapping". The amendment proposed by the

Opposition is a very blunt instrument that would cut across the tiered approach to offences put forward in this legislation. The impact of the proposed amendment would be to make the new car-jacking offence unworkable and incongruous. Car-jacking targets people who have unlawfully taken a vehicle by force or unlawfully taken a vehicle by detaining the person who is lawfully in a vehicle.

A maximum penalty of 10 years imprisonment is provided for that offence, which rises to 14 years in aggravating circumstances, including the offender being in company with another person, the offender being armed with an offensive weapon or the offender maliciously inflicting actual bodily harm on a person. As the honourable member for Miranda informed the House, this new offence must be understood in the light of existing laws relating to theft and kidnapping. Comprehensive and adequate laws dealing with robbery, assault and kidnapping are already in place and it is not the intention of the new offence of car-jacking to override those laws. Rather, it is intended that the new offence will apply to circumstances that cannot be dealt with under the definitions of "robbery", "larceny" or "kidnapping".

Take the following set of circumstances: a person approaches a car stopped at traffic lights and gets into a car with a loaded firearm, forcing the driver of the car to drive off. The driver is forced to drive for three hours during which time the gun goes off and wounds the driver in the leg. The driver is finally let out and the offender drives off in the car, which is later used in an armed hold-up. In such circumstances the car-jacking, while a serious offence, is far less serious than the event that occurred after the vehicle was taken. It should not be made to carry all the way to prosecution. Instead, available additional charges could include kidnapping, which carries a penalty of 14 years or 20 years maximum if the victim is injured. The charge could include robbery, which carries a penalty of 14 years or 20 years maximum if the victim is harmed. The charge could include shooting with intent to inflict grievous bodily harm, for which a penalty of 25 years is provided.

The reasoning for the proposed construction of the offence is that if a person has been kidnapped, the fact that the victim's car was commandeered is not as important as the physical detention of the victim. As a result, it is appropriate that any new offences not muddy the water or detract from the more serious offence. Emphasis should be placed on the evils of kidnapping. However, if the victim has been assaulted or detained in a manner that is serious but not within the general understanding of the term "kidnapping", it is appropriate to have a new offence to deal with that. That is what this new law will do; it is an additional law specifically targeted at the offence of car-jacking which, in its criminality, falls somewhere between car stealing and kidnapping.

The offences of joy-riding, car stealing, robbery, aggravated dangerous driving causing death, break enter and steal, kidnapping, aggravated robbery, and aggravated kidnapping form a hierarchy with maximum sentences between five and 20 years. I suggest that the appropriate range of sentence for the offence of car-jacking is in the middle of the range of sentences for the offences just referred to—that is, 10 to 14 years. The bill gives the police some very effective tools to ensure that recruiting children and intimidating persons not to give information to the police are serious offences that will be prosecuted. Ensuring that that behaviour—which is typically conducted by gangs—is easily prosecuted will give the Police Service a significant tool with which to stem gang activity. The bill creates an aggravated offence to deal with gang-like activity—that is, being in company with another person or persons during the commission of an offence. I think sufficient has been said about that.

This bill builds upon recently enacted legislation that prescribes life sentences for sexual assaults in company, and it will complement the legislation of the Minister for Police concerning non-association orders. It creates offences similar to those in the recent drug house legislation. This legislation is part of a co-ordinated and, I believe, highly intelligent response to activity on our streets that cannot be tolerated. Gang activity is particularly repugnant. The honourable member for Liverpool provided a learned account of the social history of gangs and the difficulty that can occur if one attempts to closely define "gang" or specific gang activity. That is why the Government has avoided closely defining "gang" in the bill. There are social and practical legal arguments against including that definition in legislation. Instead, the Government, through this bill, has created a series of offences that focus on the unacceptable behaviour that is typically exhibited by groups of people whom we call gangs. As I have said, the bill creates a wider and more coherent package of laws that, I believe, will greatly assist police to curtail unacceptable activity on our streets. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

Mr TINK (Epping) [12.33 p.m.]: I move Opposition amendments Nos 1 and 2.

No. 1 Page 6, schedule 1 [10], line 27. Omit "10 years". Insert instead "14 years".

No. 2 Page 6, schedule 1 [10], line 31. Omit "14 years". Insert instead "20 years".

Amendment No. 1 amends new section 154C (1) (b) by increasing the penalty for the offence of car-jacking from 10 years to 14 years. Amendment No. 2 amends new section 154C (2) by increasing the penalty from 14 years to 20 years. In his speech in reply to the second reading debate the Attorney General said that the penalties for car-jacking fall between the penalties for the offences of car stealing and kidnapping. The Opposition strongly supports that provision. Indeed, I introduced a private member's bill in this House to create the offence of car-jacking, specifically because the existing law does not deal with such an offence. Section 94 of the Crimes Act provides for a third category of offence that is critically important: stealing from the person.

In my view, stealing a chattel plainly includes stealing a car, the defining circumstance in the offence being "stealing from the person". In that respect the offence of stealing from the person differs from the offence of car stealing. With respect to the Attorney General—and I have a lot of respect for him—one of the main reasons for my amendments is that he has not taken into account the crucial element of section 94, which deals with stealing a chattel, to wit, a car, from the person in the context of the regime of sentencing as provided in the Crimes Act. That is critically important.

In my view stealing a vehicle from a person is stealing a chattel from a person, and the offence therefore comes under section 94, and that section is critically important. Car-jacking is essentially stealing a chattel, a car, from a person. That is what this bill is all about. What bothers me is that the bill as drafted proposes—not by design I am sure, but by default—a reduced penalty for stealing a car from a person. It reduces the penalty for that crime, in the case of car-jacking, from 14 years to 10 years, and from 20 years to 14 years if there is aggravation. That is a most serious matter.

That reduction in penalty is a very serious mistake, and it is not the first serious mistake this Government has made with the criminal law. It made a very serious mistake in the Young Offenders Bill, which defined small quantities of drugs in a particular way. I do not want to focus on that, except to say that serious mistakes can be made and are made in this Parliament and the Opposition is obliged to point out such mistakes. I do not believe that the Attorney has made a deliberate mistake in this bill, but now that the mistake has been pointed out it must be fixed.

Necessarily, this is a complex area of the law. "Larceny", "stealing" and "robbery" are not defined with any particularity. They are found in case law, and they are extremely difficult and slippery concepts, dealing as they do with matters such as an intention to permanently deprive. That is why there is some basis for prescribing car-jacking in particular. I will give a couple of examples. In what, unfortunately, is a common scenario a mother leaves her child in her car and goes into a supermarket, she comes back, is about to get into the car, and suddenly sees that a person has entered the car or broken into it and is about to drive off.

In my opinion, under new section 154C that would constitute an attempt to take a motor vehicle without the consent of the owner, and drive it when a person is in it—namely, the child. That offence would specifically fall under section 154C if the bill is passed. However, section 94 of the Crimes Act also provides for that circumstance—the child is in the car, and the mother comes back to the car and sees it being driven off. That is to say, a person steals a chattel, a car, from the person—with the mother in the immediate vicinity of the car—drives off and later discovers there is a child in the car.

This bill states that a car-jacking occurs when a person takes a motor vehicle with another person in it, but specifies it is not kidnapping. Under the current law that would amount to stealing a chattel from the person of another, which carries a maximum penalty of 20 years imprisonment if it is aggravated and 14 years imprisonment if it is not. If the Opposition's amendment is not agreed to, the Government will be reducing the penalty from 14 years imprisonment to 10 years imprisonment, and that is a dangerous precedent. This type of policy on penalties is driving people nuts, as the honourable member for Gosford, the honourable member for Vaucluse, the honourable member for Wagga Wagga, the honourable member for Bega and I know from attending public meetings.

Although in many cases penalties are the responsibility of the judiciary, in this case the responsibility will rest with the Government. Therefore, we all have a duty to get it right. The Government cannot blame the judiciary if Parliament passes legislation that is contradictory. Judges are bound by oath to apply the law in the appropriate fashion, and if the Government forces Parliament to pass ill-defined penalties, the judiciary is bound to apply the option most favourable to the accused.

Under section 94 the current maximum penalty for taking a vehicle with a baby in it would be at least 14 years, or 20 years in circumstances involving aggravation. The public abhors this most serious of offence. Car-jacking would be one of the worst evils—although to some it might appear to be a joy ride—if it involved taking a child against its will. Indeed, the child could be so young as to be incapable of expressing its will. The penalty for such an offence should not be reduced and I cannot see how the Government can oppose the amendment.

Questions have been raised about the prosecution proving the intention of "permanently depriving" under sections 94 and 95. I understand that point, which is why I support the need for specific car-jacking legislation. However, what concerns me in this bill is that the Attorney General and the Government—I am sure unwittingly and by default—have given a ready-made defence to offenders who, at present, may have no defence to the very serious offence of stealing from a person or stealing from a person in circumstances of aggravation. The very circumstances surrounding a car-jacking would be strong evidence before a jury that there was an intention to permanently deprive. I would think that any accused who decided to take the stand, give evidence and be cross-examined and said it was not their intention to permanently deprive someone of the chattel, that is the car, but to go for a joy ride, would be given a real work-out by the Crown Prosecutor. No jury would buy that rubbish.

In other words, the very act of the car-jacking, of taking a vehicle for the purpose of driving it, especially when a person is in it, would be the strongest evidence of an intention to permanently deprive a person of a chattel and, therefore, would be punishable with 14 years imprisonment or 20 years imprisonment in circumstances of aggravation. With this bill the Government is attempting to provide a defence that the person just wanted to go for a joy ride. It is a road map to all car-jackers and people apprehended stealing vehicles to say they were not stealing the vehicle but were just going for a joy ride.

This will become known as the car-jacker's defence or mitigation. It is crazy. I cannot believe that the Attorney General or the Government is deliberately seeking this outcome, but that will be the outcome. It will be the Bob Carr-jacker's defence. Offenders will assert they did not steal a vehicle, they car-jacked it, and the penalties will be 14 years and 10 years respectively, as distinct from 20 years and 14 years. The Government is proposing a statutory sentence discount for car-jackers. I do not think I am far off the mark when one considers the contribution of the honourable member for Miranda, whose views on legal matters I respect. On 24 October he said:

> The honourable member for Epping equated car stealing—that is, taking a car with the intent of permanently depriving its owner—with car-jacking, which is a completely different offence in relation to which a new offence has been created by this Government. The essential difference is that a person who car-jacks and takes a car does so with the intent not to permanently deprive the owner but for a specific purpose or a short period of time.

With respect to the honourable member for Miranda, that is rubbish. I will go to a public meeting in Miranda any time between now and the election and quote that. The public goes absolutely nuts about this stuff. It is bad enough that the Government suggests that people should ring the police assistance line rather than the local police, but the average person who sees a car in which a mother has just placed a baby being broken into and driven away obviously believes that the car has been stolen. The average person would also regard that as kidnapping. I certainly do. The only way it would not be kidnapping is if the offender does not know that the baby is in the car, but that is a pretty big ask. If there is a person or a child in the car, would the average person think that the theft of that car should be regarded as less serious than stealing property from a person?

The other stupidity with this bill is that stealing a vehicle from a person now carries a penalty of 14 years for a non-aggravated offence and 20 years for an aggravated offence. This bill specifies that the offence of stealing a vehicle with a person in it is regarded as a lesser offence of car-jacking—without the consent of the owner or person in lawful possession of a motor vehicle, takes and drives it, or takes it for the purpose of driving it, when a person is in it or on it. Stealing a vehicle with someone in it and driving them away against their will is regarded as a car-jacking. That is a terrible crime and the public would be astonished to learn that this bill proposes that the maximum penalty for that offence should be less than for the offence of stealing a vehicle from a person.

Under this legislation, stealing a vehicle with a person in it is now a lesser offence than stealing a vehicle from a person. Section 94 of the Crimes Act should be compared with new section 154C of this bill. This new section is back to front, upside down and a deadset mess. I regret to say that the Premier's fingerprints are all over this legislation. He is bullying this legislation through the Parliament and he is putting time limits on it, which does not allow proper consideration of the detail of public interest that is required to get the matter right. The Premier's Office—more particularly, his media unit—is driving this legislation. That is a deadset tragedy.

I acknowledge, as would everybody in this Chamber, that a specific car-jacking offence is needed because in some cases the question of the intention to permanently deprive is a real legal issue. Why, when trying to remedy the problem, make it far worse? We learn in the first year of law school, as the honourable member for Gosford knows, to keep things simple when drafting a will. The more complicated a will—the more specific the gifts and bequests to great-aunts, great-uncles, dogs, et cetera—the worse it gets and the more likely the exemptions. This matter is a little like the drafting of a complicated will: we are slipping in a specific offence that does not sit comfortably between car stealing and kidnapping. No-one has given any thought as to how it sits with section 94 of the Crimes Act. It must be redrafted. The Opposition's proposal gets it right with section 94, and is the answer to the problems.

All honourable members accept the obvious need for a car-jacking provision. The Opposition has been trying to introduce a bill in this regard for quite some time. The easy answer is for the Government to accept the Opposition's amendment. As I indicated in my contribution to the second reading debate, that is what the Premier promised on 11 August 1996: 20 years imprisonment for car-jacking. If that provision were included in new section 154C (2), which is what this amendment seeks to do—that is, replace 14 years with 20 years—the Government would finally honour a promise the Premier made after the dreadful de Bries car-jacking a few years ago. The Government would also get away from the concept of car stealing per se—which, with respect, is the wrong concept in this regard—and it would make the maximum penalties equivalent to those for stealing from a person.

Each person at our public meetings would say that car-jacking is no less an offence than stealing from a person. If a person is in a car that is car-jacked the offence is a lot more serious than simply stealing from a person. It is a case of stealing a car from a person with a person still in it. It is crazy for there to be a lesser penalty for that offence. I apologise to the Attorney General for the lateness of my other amendment, but I believe that it flows consistently with what the Opposition is trying to do in circumstances of aggravation. The problem will be solved if the proposed 10-year penalty is changed to a 14-year penalty, to make it equivalent to stealing a chattel from a person of the non-aggravated type. The courts still have a discretion because they are maximum penalties, but they are not sending a message to car-jackers that they will be treated more leniently than people who steal other things from people. The sentences would then cascade in the appropriate format.

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [12.54 p.m.]: During my reply to the second reading debate I spoke at some length in anticipation of the amendment and I do not propose to prolong the debate. If we accept that there is a degree of goodwill on each side in this debate I am forced to say that I think the honourable member for Epping has simply misconceived the technical detail of this legislation and that he continues to overlook the fact that this offence is in addition to all the other offences—that is, joyriding, car stealing, robbery, aggravated driving causing death, break, enter and steal, kidnapping, aggravated robbery and aggravated kidnapping.

The new offence will provide the police with a provision that is not contorted in the way the honourable member has attempted to promote. It will provide a simple, straightforward offence that applies in circumstances that involve actions that are more serious than joyriding—which is quite clear-cut and easily defined—but not as serious as robbery or kidnapping. If people engage in robbery or kidnapping they can be charged under the Crimes Act right now. It is important that the new car-jacking offence will apply irrespective of whether the offender has an intention to permanently deprive the owner of his or her vehicle. This actual black letter legislation is approved and recommended by the Director of Public Prosecutions, the Criminal Law Review Division of the Attorney General's Department and everyone else who has concerned themselves with these matters in the preparation of the legislation.

If the interpretation put forward by the honourable member for Epping were valid, I would be prepared to accept the amendment and adopt a bipartisan view. I do not accept that the analysis of the honourable member is correct. The new car-jacking provision will sit effectively amongst all the other provisions that relate

to motor vehicle crimes, and the police and prosecutors will therefore be able to pursue actions where, in the past, there have been difficulties in proving an appropriate intent. For that reason, but I hope in goodwill, the Government does not accept the amendment.

Mr HARTCHER (Gosford) [12.57 p.m.]: I do not propose to canvass the ground covered by the honourable member for Epping. The criminal and legal aspects were put eloquently by the honourable member for Epping. However, it is appropriate for the House to look to one aspect of the motivation for the amendment. That third aspect is the Premier's integrity. In August 1996 the Premier and the Government committed themselves to a 20-year penalty for car-jackers. On 11 August 1996 the *Sun-Herald* reported that the Premier pledged to introduce penalties of up to 20 years imprisonment to deter a new wave of car hijacks in New South Wales. The article said that the Premier likened car hijacking to home invasion and the appropriate penalty should be one likened to that for home invasion.

The Premier's integrity and credibility are partially at stake in the Opposition's moving of this amendment. Either the Premier stands by his commitment of August 1996 or he does not. All the arguments in the world about a range of offences may well be a separate matter for argument and discussion. I am fully conversant with the exchange that has taken place between the honourable member for Epping and the Attorney General. However, the Premier's commitment must be brought to the attention of the Committee. Before deciding whether to accept the amendment, the Committee must understand that this was the Premier's original pledge. If the Premier and those who support him are to go back on their word and not honour their commitment, we want to put that on record. The vote for this amendment will achieve that aim.

Mr TINK (Epping) [1.10 p.m.]: When the Premier made his promise in 1996 he was correct in both addressing the legal position and introducing policy about car-jacking. The bill before the Committee—one assumes the Premier has signed off on it—is wrong in law and in fact. It fails to address what the public wants and needs, and it does not deliver on the promise that the Premier made all those years ago. On the technical side, while the intention of new section 154C is both welcome and necessary, the penalties proposed do not pay any regard to the proper position of car-jacking in the sentencing hierarchy compared with not robbery or larceny but theft from the person. The failure to mesh the penalties properly with those sections of the Crimes Act will lead to absurd outcomes in the courts and in the sentencing hierarchy.

It will enrage the public still further regarding the administration of justice in New South Wales, in which they have virtually zero confidence at present. They are strong words, but I attended a public meeting last night at Menai and listened to some eminently reasonable people who are incandescent about criminal sentencing, law enforcement and the administration of justice in this State. It is a big mistake to proceed with this legislation when it could be fixed by the adoption of simple amendments—which, ironically, are in line with the Premier's original promise. In carving out this car-jacking exception the bill identifies the most serious criminal behaviour, such as:

> … takes and drives it—

that is, a car—

> or takes it for the purpose of driving it, when a person is in or on it.

As to the particulars of that provision in terms of criminality and the requirement to attract maximum penalties, such conduct is surely equivalent to stealing something from another person. It cannot be a lesser offence to drive off in a car containing another person who is being held against his or her will. That is surely not a lesser crime than stealing a vehicle and leaving its driver or passenger on the footpath. It is crazy. The solution is simply to equate car-jacking with stealing from the person because it is another form of the same crime. I urge the Committee to support the amendment.

Amendments negatived.

Schedule 1 agreed to.

Schedule 2 agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

SPECIAL ADJOURNMENT

Motion by Mr Whelan agreed to:

That the House at its rising this day do adjourn until Tuesday 6 November 2001 at 10.00 a.m.

BUSINESS OF THE HOUSE

Routine of Business

Motion by Mr Whelan agreed to:

That standing and sessional orders be suspended to allow consideration of private members' statements forthwith, followed by the introduction and progress up to and including the Minister's second reading speech on the Justice Legislation Amendment (Non-association and Place Restriction) Bill after which the House will adjourn without motion.

PRIVATE MEMBERS' STATEMENTS

RECLAIM THE NIGHT MARCH

Mr STEWART (Bankstown—Parliamentary Secretary) [1.06 p.m.]: I am proud to draw the attention of the House to the Reclaim the Night march that I attended last night in Bankstown. Other marches will occur in Sydney tonight and in regional areas across New South Wales in the next few days. I marched with the women of Bankstown last night as a gesture of support. It was an historic event for Bankstown as it is the first time that the march has been held in my area. It attracted women and children from a wide range of diverse communities, who marched peacefully in a united stand against violence and sexual assault committed against women and children. Although this was a march for women only, I thought it important that I, as the State member of Parliament for Bankstown, express my solidarity with the women by offering my support as a spectator and cheering them vigorously as they marched through Bankstown.

The march demonstrated that the women and children of Bankstown of all races and religious backgrounds stand united in the quest to be able to walk the streets and live in their homes safely, without the risk of assault. Last year an estimated 34,000 New South Wales women reported sexual assaults to police. Bankstown is not immune to this problem, as has been highlighted in the media over the past few months. In 1999 a series of sexual assaults occurred in Bankstown that became notorious throughout the wider community—especially in terms of the impact on the victims. Police Strike Force Sayda was established to investigate those assaults, and I am pleased to report that several people have been arrested and that their cases are now before the courts. As a result, we have learnt much about the initiatives that must be put in place to prevent a recurrence of these types of crimes.

That is what last night's march was about. I was overwhelmed by the sight of hundreds of women marching peacefully through Bankstown in a demonstration of solidarity and harmony. I was also pleased to see many men lining the Bankstown streets, cheering and supporting the women and children who were marching. Last night's march sends a clear message to the wider community—particularly to the media—that the women and children of Bankstown stand united and are immensely proud of their local area. The march also sends the strong message to men who assault women and children that that behaviour will be exposed and never tolerated by this or any other community in Australia.

Last night's march resulted from the strong support and initiative shown by Bankstown City Council, which earlier this year established the sexual assault committee that supports women and children in Bankstown. The march took place because of the strong support given to that event by Helen Westwood, a fantastic councillor at Bankstown council who is committed to Bankstown local community, and Liz Collier, an employee of Bankstown council. Both those people, who were instrumental in organising this event, deserve strong praise for their tremendous efforts. Last night's speakers included Dorothy McRae-McMahon, Chair of the New South Wales Council on Violence Against Women, who spoke well. She highlighted how important it is for women in the Bankstown local area to take ownership of the night, stand proudly for their local area and expose violence.

Tamahra Manson, another guest speaker, spoke sensitively on behalf of the victims of violence. She referred to a number of victims of sexual assault in the Bankstown area and talked about those women's

experiences, which brought home to those assembled the tangible prospect of violence. Over 1,000 women and children assembled for this fantastic march. Penny Gulliver, Australia's leading expert on self-defence for women—she is presently conducting self-defence classes for women in Bankstown—spoke in a focused way to those women and men who were assembled for the Reclaim the Night march in Bankstown last night.

I look forward to supporting next year's Reclaim the Night march in Bankstown. I am certain that this year's march sent a strong, positive and powerful message to Bankstown residents and to the wider community. It is pleasing to note that New South Wales Health, through the Carr Labor Government, provided $9.1 million for sexual assault services to women in the State, including 38 services in rural areas. I implore women to use the infrastructure that has been put in place to expose sexual assault, any type of domestic violence, and violence towards them by ringing the women's information referral service on 1800817227. Women must let the community know that they will no longer tolerate that sort of behaviour.

TERRORISM

Mr DEBNAM (Vaucluse) [1.12 p.m.]: On the evening of 18 October my electorate was again under attack from dangerous criminals with political motives. Attackers tried to firebomb six cars in a Vaucluse street and wrote inflammatory graffiti on other cars and a home. Our community was lucky and only one car caught fire. If the attackers had been more successful, Australia would have witnessed a street alight as six cars burned along both sides of a quiet residential street. Our luck continued as the car's petrol tank did not explode. Residents used a garden hose on the fire. I have continually asked the Minister for Police to boost police resources in the eastern suburbs, but I do not think the Government is taking this issue seriously. There is no effective or visible police presence in the eastern suburbs and, therefore, no deterrent.

Our local police are underresourced. While they are putting their lives on the line every day, it is clear that they do not have the political backing or proper resourcing from the Carr Government. My concern is that the Carr Government remains focused on public relations and not on community safety. Did the 11 September terrorist attacks actually wake up the Carr Government? I am sure that the answer is probably not. Since 11 September the western world has seen the nature of evil and disaster in the twenty-first century. But State governments may not have understood the message. The Government's lack of response in the eastern suburbs proves that point. World-scale terrorism has raised the stakes everywhere. It can only be fought by a new determination between State and Federal governments and the community. Last month Henry Kissinger is reported to have said this about the United States of America:

> For ten years, we've been living in a fool's paradise.

Just as Rudy Giuliani joined George Bush on centre stage, New South Wales, whether we like it or not, is in the forefront of the fight against terrorism. The 11 September terrorists attacked people, infrastructure, rescue services, financial markets, economies, tax revenues and community harmony, and implicitly ridiculed our government priorities. Ongoing biological terrorism multiplies the effects of the initial tragedy. In counter-terrorism, State services are as critical as Federal services. In preventing terrorism, State policing and intelligence gathering are as important as the work of Federal agencies. While responding to terrorism and in managing disaster relief, State administrations are the front line.

Terrorism has redefined the nature of government services in the twenty-first century. While governments are not yet sure of the new challenges, there are some things we can do. It is time for New South Wales to review the demand for State services and infrastructure, calculate prudent contingencies and reassess all priorities and spending. It is time for action and for community reassurance. Even the United States of America is feeling its way and talking its way through unknown territory as that country responds to continuing attacks. In New South Wales we are also mature enough to discuss the adequacy of our response, or the lack thereof. Claims about the need for secrecy do not stand up to scrutiny.

We have had tax, business and drug summits. The New South Wales Parliament should convene a counter-terrorism summit after the Federal election, or at least there should be a day for debate of this issue in Parliament. We do not need a platform for political apologists, but we do need a forum to consider at least the outline of new strategies and benchmarks in State services. Not only must States deliver effective policing, hospital and disaster management services; they must also be prepared to do it on a scale not previously considered. Our policing must be turned around. No longer can we accept the ongoing privatisation of public order. We need a strong and effective police force able to maintain public order and cope with large-scale emergencies. We must stop screwing down our hospital budgets to the last bandaid. We must build in and operate substantial contingencies.

We need to review the vulnerability of our transport and other key infrastructure. We need damage control plans and recovery plans to keep our community and, importantly, our economy going. Remembering that last month's attack was designed to stop economies as well as kill people, there will be significant human suffering from the lasting economic impact of terrorism. We need co-operation between Federal and State agencies in all portfolios. We must discard the duplication of State and Federal bureaucracies in health, education, national and State development and transport. Our state priorities have always been health, education, law and justice and enabling infrastructure. Parliaments must also reassess traditional adversarial roles when responding to the new ugliness of terrorism. Oppositions must always call governments to account, but while we reinvent State administrations, co-operation on this issue would be productive.

All wisdom does not reside on government benches. The community interest would be well served by a sense of co-operation and trust between Cabinet and shadow cabinet in assessing and responding to terrorism. We cannot hope that it will never happen in New South Wales. It has happened. Last month's attack targeted western free-enterprise democracies. We are one of those democracies. The terrorists did not just attack the United States of America; they attacked our way of life and we need to defend it. Australia and New South Wales will continue to feel the effects as the world economy struggles, tax revenues fall and governments reinvent themselves to cope with new enemies.

The New South Wales Parliament can now convene a summit for members of Parliament and other community leaders to discuss the implications of last month's attacks, ongoing attacks and the Government's responses. Second, we can task each government department, especially health, education, policing, courts, transport and infrastructure with urgently reviewing priorities. Third, we can convene joint meetings of Cabinet and shadow cabinet to plan medium-term strategies to protect New South Wales citizens and infrastructure against terrorist attacks. Fourth, we can request the Parliament's Public Accounts Committee to review the budget implications. Fifth, we can establish a standing committee on counter-terrorism to review State strategies. Lastly, yesterday I asked the Minister for Police for a detailed response to last week's firebombing. I asked him to inform honourable members whether he had increased police resources in the Bondi and Rose Bay police patrols since the terrorist attacks. Is the Minister for Police now able to say that he has done so?

Mr STEWART (Bankstown—Parliamentary Secretary) [1.17 p.m.]: I note the comments made by the honourable member for Vaucluse. What occurred on 11 September certainly has affected the whole world. It has changed the way in which we do things and it has altered the way in which we think. The Premier of New South Wales has taken into account the effect of those terrorist attacks. Only a week ago the Premier announced in this House that plans are in place to deal with anything that might occur as a result of the 11 September terrorist attacks. I applaud the Premier's direction, as leader of this State, in relation to this most important matter.

The Premier has held meetings with Islamic communities. When I attended some of those meetings in my local area I indicated that those communities have the support of this Government. Only a week ago the Premier met with the Ecumenical Council to inform religious leaders from Anglican, Orthodox and Catholic backgrounds of the important initiatives that have been put in place. In an attempt to appease the honourable member for Vaucluse, I inform him that many initiatives have been put in place as a result of this terrorist alert. I am sure that police in the Bondi area and other regions are responding adequately to that alert. Police are leaving no stone unturned in an effort to uphold community safety standards during this current crisis.

NEW SOUTH WALES FLORAL EMBLEM

Ms ANDREWS (Peats) [1.19 p.m.]: It is a well-known fact that the waratah is the floral emblem of New South Wales. The botanical name for the New South Wales waratah is telopea speciossissima. The word "telopea", being Greek, means seen from afar. The word "speciossissima" is Latin for very beautiful. One of this State's better kept secrets is that there is a white waratah known as telopea speciosissima wirrimbirra white. That unique native flower, which is regarded as a freak of nature, was discovered by European Australians in the late 1960s in the forests of Sydney's water catchment area in the Southern Highlands. Undoubtedly, the white waratah was discovered by indigenous Australians long before that date.

The person responsible for collecting cuttings from the single bush, thus giving birth to the wirrimbirra white, was Dr Thistle Harris. It is reported that the original wild bush has flowered only twice in the past 20 years—in 1982 and 1985. The reason for the flower being white instead of the customary red is that it lacks a red gene. It would be of interest to honourable members to learn that there are more than 100 commercial growers of waratahs in New South Wales. Only 5 per cent of waratah production is devoted to the white waratah. For the past four years Australian Native Flower Growers and Promoters have been co-ordinating an auction of the rare white waratah. This year the auction raised more than $12,000, making a total of more than $62,000 raised for charity since the auction's inception four years ago.

I attended this year's auction, accompanied by Trish Moran, the Australian Labor Party candidate for Robertson. The auction was held at the Sydney Flower Market, Homebush, on 26 September at 6.15 a.m. Waratah Day is commemorated on 26 September each year. It is a great pity that this is not a well-known fact, particularly as the waratah is our State's floral emblem, and a spectacular one at that. My own awareness of Waratah Day has been heightened due to the dedicated work of members of the Australian Native Flower Growers and Promoters who reside in the Peats electorate. They include Craig Scott, president of the group, his wife Angela, and Nola Parry, the secretary. Nola is a member of the well-known Parry family, who are regarded as a pioneer family in the promotion of Australia's native flora both in Australia and overseas. Kay Ezzy, another constituent, is also a very active member of that group.

Australian Native Flower Growers and Promoters was formed in 1976, and its objective is to promote the uniqueness, diversity and beauty of Australia's native flora. Members of this group produced the beautiful bouquets for the Sydney Paralympic Games. This year the funds raised from the white waratah auction went towards Australia's Paralympic athletes who will participate in the Winter Paralympic Games, to be held in Salt Lake City in 2002. Last year the funds raised went towards Australian Paralympians who participated in the hugely successful 2000 Paralympic Games at Homebush Bay. This year's auction was hosted by well-known television sports presenter Ken Sutcliffe.

The spectacular white waratah arrangement, donated by Elwyn Swane, raised $2,800. I was pleased to see a number of Paralympians who will participate in the 2002 Winter Paralympic Games in attendance at the early morning auction. Included on the white waratah working committee are two athletes: Denise Beckwith, who won a bronze medal in swimming at last year's Sydney Paralympic Games, and Nathan Chivers, who is a guide skier for Paralympian Bart Bunting. Bart Bunting, who is blind, lives in Sydney and is a keen snow skier. He will participate in the 2002 Winter Paralympic Games. Bart addressed those in attendance at the auction, and everyone was enthralled when he revealed that he skis down challenging slopes by following voice commands from his guide, Nathan, who skis approximately three to six metres in front of him.

I take this opportunity to congratulate all those involved in organising the white waratah auction each year. The auctions serve a dual purpose: they give a high profile to our State's floral emblem, the waratah, and our other beautiful and unique native flora, while simultaneously raising funds to support a worthy group of athletes, namely, our Paralympians. I wish the athletes who have been named on the provisional 2002 Winter Paralympic Games team the best of luck. Those athletes are Bart Bunting, Nathan Chivers, Peter Boonaerts, Michael Milton, Mark Drinnam, Jono Oakman, Scott Adams and Cameron Rahles Rahbula.

Mr GARY NAIRN, FEDERAL MEMBER FOR EDEN-MONARO

Mr WEBB (Monaro) [1.23 p.m.]: I have great pleasure in applauding the work of the Federal member for Eden-Monaro, Gary Nairn, I am sure that the honourable member for Bega will support me in my remarks. Gary Nairn has worked tirelessly for the people of Eden-Monaro as their Federal member. I particularly want to place on record his significant contribution to the people of the far South Coast in obtaining, against all odds, the Eden munitions naval wharf facility. A recent announcement named Baulderstone Hornibrook Pty Ltd as the successful preferred tenderer for that facility. This significant infrastructure, to be located on a site on the far South Coast, will benefit the people of New South Wales and Australia. This commercial facility, which has also received New South Wales Government support, will be an asset for the future of New South Wales.

The Defence Call Centre, which Gary Nairn obtained for his electorate, has created a growth spurt in the town of Cooma. Property and employment markets have improved greatly in the past few months since the call centre was established. Investment in the town has taken off in a big way, and the spending of weekly pay packets will also boost the area. Another major initiative that Gary Nairn was responsible for, as recently announced by the Prime Minister, the Hon. John Howard, at Russell, Canberra, was the proposed Defence Operations Centre. It is the first time Australia has brought together the three areas of defence—Army, Navy and Air Force—in a joint operations centre.

This centre, which is situated on the Kings Highway 12 kilometres east of Queanbeyan, will create $200 million worth of investment, 250 jobs during construction and 1,000 jobs during operation, and will have a major impact on the local Queanbeyan economy. The whole region will benefit from the injection of weekly pay packets during construction and operation. The need for defence housing will assist the town of Jerrabomberra and also assist the property markets in the Yarrowlumla shire and township of Bungendore. Further benefits will be felt directly in Queanbeyan.

The Federal member has worked tirelessly throughout his electorate of Eden-Monaro, which includes the State electorates of Monaro and Bega. Gary Nairn has worked hard for the establishment of retirement

villages, in particular the Broulee Retirement Village. An announcement was made recently about that village. Gary Nairn has represented his constituents tirelessly over the past few years and has worked closely with Government Ministers to obtain infrastructure development for his electorate, which has boosted employment and confidence throughout the region. He was also successful in obtaining a recently announced $600,000 investment for the Bega Co-operative. Dairy farmers in that area have come through the deregulation of the dairy industry somewhat better than those on the North Coast of New South Wales and Queensland. I am sure the local community would join me in thanking Gary Nairn for his tireless work in that area.

Members of Parliament who represent country electorates, unlike their city counterparts, cannot go home every night or attend functions in their local electorates. Gary Nairn has the benefit of being able to attend Parliament in Canberra and return home to Queanbeyan most nights, when he is not travelling throughout his electorate. As the State member representing the seat of Monaro, I, and my staff, have difficulty managing our operations when away from the electorate. Because of the tyranny of distance I am unable to go home every night or attend various functions. When I am in my electorate I cannot attend functions held on the same day or within a short time frame because of the travelling time between, for example, Eden and Jindabyne in the Snowy Mountains. Gary Nairn has largely assisted in this area by arranging his itinerary and diary so that he can represent the people of his electorate and my electorate of Monaro in an outstanding fashion. I congratulate and applaud Gary Nairn on his commitment and success and wish him all the best in the forthcoming Federal election.

SOUTH SYDNEY REDEVELOPMENT

Mrs GRUSOVIN (Heffron) [1.28 p.m.]: I speak on the progress being made on the redevelopment of South Sydney, an area situated entirely in the electorate of Heffron. The Deputy Premier, and Minister for Urban Affairs and Planning has announced a short list of five teams of leading local and international experts as finalists in the design competition for the new Green Square town centre. That town centre will be the major focus of the Green Square precinct, the biggest urban renewal project in the Southern Hemisphere. The goal is to respect the area's rich heritage while setting the stage for a vibrant mix of residential, commercial and retail development. The $2 billion Green Square development is the largest of the beyond 2000 projects. The budget for the development is the equivalent of 89.5 per cent of the entire Olympic Games construction budget. This vast concept is not without its difficulties. It is always hard to achieve a whole-of-government approach but at present the many parties are working hard to do so.

I want to place on record my appreciation of the work over the past years of the former Chairman of the South Sydney Development Corporation, William Kirby-Jones, who has relinquished that position to take up the chairmanship of the newly corporatised Landcom. He has made many things possible from small beginnings. The corporation has functioned on a slim budget but it has been able to facilitate many of the things needed to make the South Sydney project a success. William Kirby-Jones has been replaced as chairman of the corporation by Mr Malcolm Latham, AM. I am delighted that he has taken up the position. I am impressed with the ability he has already demonstrated and by his commitment to the project.

Many exciting things are happening in the area. Earlier this year Taylor's College at Bourke Road, Waterloo, was opened. That college is providing education in Australia for 1,000 overseas students. Many of them are involved in foundation studies at the University of Sydney. These are all fee-paying students and are important to the economy of the country. I am delighted that their purpose-built campus is providing such excellent accommodation for them. I am pleased by the recent response of State Transit to requests for changes in bus arrangements and shelters to accommodate the needs of the students, and I am pleased with the relationships that have been built up with the college, particularly with the principal, Ms Natalie Conye.

On 4 November an oral history book that has been completed as part of the project will be launched locally. The book was a project undertaken by historian Margo Beasley late in 2000 and early this year. It is a wonderful resource. The South Sydney Development Corporation, South Sydney City Council and the South Sydney Corporate Park committed themselves to linking the area's past with its present and future. Earlier this year the Minister for Urban Affairs and Planning launched the book in Governor Macquarie Tower. On 4 November there will be a local gathering, a village fair, at which one of the local stalwarts and identities who contributed to that book will be honoured. I am particularly delighted that a well-known local resident, Mr Ted McDermott, features on the cover of the book, which is called *Everyone Knew Everyone…* It was given that title that because when Ted McDermott was asked by the oral historian what it was like there in past years he said, "Everyone knew everyone." We are endeavouring to ensure that the new community will continue that tradition and that newcomers will be integrated with older residents to make the project a roaring success.

SUTHERLAND SHIRE ROADS AND FOOTPATHS

Mr KERR (Cronulla) [1.33 p.m.]: It is pleasing to know that some developments are occurring at a local level, in contrast with the subject matter I want to talk about. I refer to the state of roads and footpaths in the Sutherland shire. Some time ago a constituent who fell over on the footpath wrote to Sutherland Shire Council and was told that the council would not compensate her in any way and that it was not required to construct or maintain footpaths or roadways. Little wonder that Sutherland Shire Council was a bullet performer on the list of what the *Daily Telegraph* described as our most despised councils, resting at number four on that list of infamy. Footpaths seem to attract publicity in Sutherland shire.

On 28 November last year the mayor and Councillor Spencer were reported in the *St George and Sutherland Shire Leader* as saying they had discovered $700,000 that they were going to use to fund a footbridge at North Cronulla. Unfortunately, one year later no work has been done on the footbridge. The mayor and Councillor Spencer should tell the ratepayers what they have done with $700,000 of their money. A traffic and parking study was commissioned by council at a cost of $40,000 for consultants. That study has been finished and given to council, yet no announcement has been made about any improvements or any actions arising from the study—$40,000 worth! I will have more to say about that study at a later stage.

There is another matter of disappointment. Some time ago the council determined that Captain Cook Drive from Gannons Road to Woolooware Road would be upgraded. That upgrade was to be completed by the end of the year. I now find that the work has not been programmed to start this year; it has been programmed to start in February-March 2002, with a six-month to nine-month time frame. That coincides, as members on the Government side will be well aware, with the upcoming 2002 football season, which will be very successful. Go the Sharks! It will not be successful for spectators going to the matches if they have to contend with the work going on at that time. The work will have the potential to cause disruption to the football season.

There is also a proposal to remove certain Sharks facilities, including turnstiles. The club has been told that it needs to reinstate those facilities at its cost, an additional cost burden on the club. Combined with the likely disruption to the football activities, that will create the potential for immense loss of trade at the leagues club. People such as Councillor Spencer have been extremely unhelpful in trying to ensure that the Sharks have a viable future. It is about time that Sutherland Shire Council started investing in a bit of basic infrastructure for ratepayers.

Mr STEWART (Bankstown—Parliamentary Secretary) [1.39 p.m.]: With respect to the honourable member for Cronulla, I get the feeling that he should have been a councillor on Sutherland Shire Council rather than a member of the State Parliament of New South Wales. Every time I have heard the honourable member speak during private members' statement recently he has referred to his concerns about Sutherland Shire Council, which has a great reputation in the New South Wales community. It is a large shire council. When roads and pavement matters have to be dealt with in such a large shire, there are priorities and the council cannot do everything overnight.

I am sure that, as with all responsible councils—and Sutherland Shire Council falls into that category—a program of works is in place that will adequately deal with priorities on a needs basis. That process is approved by council members, who are elected by ratepayers. Councillors represent the ratepayers. I can only presume that the priorities in place suit the needs of ratepayers. I know that the mayor of Sutherland shire has worked hard to ensure that ratepayers get value for money. I am sure that will continue. Although I understand that the honourable member's concerns might be perceived as important, they should be put into perspective. A large shire council has to prioritise its responsibilities. I am sure that, as always, Sutherland Shire Council has done that.

HOXTON PARK AIRPORT

Mr LYNCH (Liverpool) [1.38 p.m.]: Hoxton Park Airport is located within my electorate. It has been a source of constant concern and worry to many of my constituents. I have spoken about it before in this place. The position I have stated previously is the position to which I still adhere: because of safety concerns the airport should close. As the airport presently operates it is far too dangerous for the safety of the constituents I represent to continue operating. In recent years there have been two separate collisions between aircraft, resulting in three fatalities. That record of accidents and lack of safety is thoroughly unenviable. If one were to peruse the Coroner's report on fatalities at that airport one would find some sobering comments and sobering reading. One of those accidents seems to have resulted from a quite cavalier and almost unbelievable change in radio frequencies without adequate notification to the pilots involved. It is that sort of lack of concern for safety that is of great concern to me and to many of the residents I represent.

Hoxton Park Airport is the busiest uncontrolled airport in this country, and by that I mean it does not have a control tower. It was good enough to erect a temporary control tower for the Olympics, but it is not good enough to erect a temporary control tower for the safety of the residents for any other period. It is made worse by the fact that many of the aircraft that use the airport do so for training purposes, which means that pilots who are learning how to fly make their mistakes at Hoxton Park, thus endangering the residents of my area. My earliest problems with the airport stem from when I was a member of Liverpool Council, where I received complaints from constituents about aircraft flying too low and in a dangerous manner. Those complaints were obviously from constituents, and they were forwarded to the appropriate authorities.

The appropriate authorities suggested that if we could get the registration number of the aircraft perhaps something could be done. Apart from being a laughable response, it was symptomatic, in my view, of the extraordinary arrogance that surrounds the controlling authorities of the airport and those who use it. The most recent incidents I have had drawn to my attention are well and truly within that tradition: complaints by residents treated contemptuously and arrogantly by those to whom complaints are addressed. Several weeks ago Mr Paul McCallum, who lives at a house in Hoxton Park in the Liverpool area, contacted my office and told me that on the Saturday prior to contacting me he had been at home and that at about 7.15 a.m. two helicopters were flying about 50 metres above his house.

Mr McCallum treasures his Saturday mornings, as people in this place do. He works five days a week, from something like seven o'clock in the morning until seven o'clock at night. One would have thought that the bloke is entitled to a little bit of relaxation come Saturday morning, but, no, at 7.15 in the morning a couple of helicopters are 50 metres above his house. Not only are they there once, but they do circuits of the airport and go around and around and around over his house at about 50 metres. That went on for about an hour or so. He thought, not unreasonably, that an hour at that time on a Saturday morning was probably just about enough to have to put up with. He tried to contact the airport to make a complaint. He tried to get the route varied so that they did not come right back over his house every few minutes.

He contacted directory assistance and got what he thought was the number of the airport. He made the phone call. He got one of the flying schools. The end result of his asking that they move the routes was an earful of obscene and offensive abuse from the people to whom he was talking. He described to me the language that was used to him. I will not sully the record of this House by repeating it here. But it is worth noting that the flying school suggested that he commit various acts of obscenity and indecency, most of which were physically impossible in any event. That sort of contemptuous attitude is, unfortunately, characteristic of the people who use the airport. It is characteristic of their attitude to residents. Mr McCallum was told, "The airport was here first. We do not care what the residents think. They can all take a running jump. They have absolutely no right to be concerned about the way we behave." The attitude of the people who use the airport is despicable. The airport should close.

Mr STEWART (Bankstown—Parliamentary Secretary) [1.43 p.m.]: I sympathise with the concerns raised by the honourable member for Liverpool about adverse effects on residents and their amenities by those who use Hoxton Park Airport. I remind this House that the Prime Minister, John Howard, has a de facto arrangement to expand the operation of that airport by extending Bankstown Airport to take regional aircraft and 737 airliners. Residents already have to deal with helicopters, but now they will have to deal with 737s almost hitting the aerials on their houses. We are not happy about it.

As a region, we join the Liverpool region to raise concerns, as we have done in the past. I continue that support in the House today. If John Howard, as Prime Minister, and John Anderson, as Minister for Transport and Regional Services, get their way Hoxton Park Airport will be upgraded to take in all the training aircraft from Bankstown Airport, along with aircraft from Camden. It will be disastrous for residents. The Hoxton Park region needs a strong voice to speak against the proposed action by a Prime Minister who does not care about those residents.

SOUTH COAST POLICING

Mr R. H. L. SMITH (Bega) [1.45 p.m.]: I wish to speak about an issue that is, I am sure, close to the heart of every rural-based member. I am talking about police stations—or, should I say, lack of them. At Tuross Head on the South Coast residents have been fighting for many years for a community-based police station. This township, which has a population of approximately 2,000 residents, has grown enormously over the past 10 years. Many residents are retirees. However, Tuross Head has fast become a popular tourist destination for thousands of people during the summer months. Over the December-January holiday season the population

trebles, bringing at least 6,000 to 7,000 extra people into the area. That is good for the economy of the area, but over recent times it has also increased the rate of vandalism and theft, which has dramatically affected the township and its locals.

Tuross Head has an active Neighbourhood Watch committee and, like so many community-based organisations, it is run entirely by volunteers. It is too much to expect volunteer organisations such as this to police so many people. The area is currently the responsibility of a single police constable, the sole policeman at Bodalla, which is 15 kilometres away. However, when he cannot attend, police from Moruya are called upon to assist. Moruya is at least a 20-minute drive from Tuross Head. I have been informed that the constable from Bodalla is called upon to assist at Moruya more often than he is at his own station. There are drastic staff shortages at Moruya. A sergeant has not been based there for many months.

The co-ordinator for Neighbourhood Watch in the area has told me that if the police at Moruya are called to a domestic assault they often have to attend on their own because of a staff shortage. This is a dangerous position in which to place any officer. Because staff are on recreation leave, sick leave, maternity leave or transfer, it is nearly impossible to implement a workable police roster. The people of Tuross Head are not asking for a super police station, as one might find in the city. What is desperately needed are adequate numbers at Moruya and a police presence at Tuross, particularly over the tourist season. In 1995 the Premier said that it is urgent to restore the people's right to be safe in their homes, in the streets and in schools. In 1999 he said that there would be a crime prevention plan for every community. In March 1995 he also said:

> We will ensure police are available where and when they are the most needed.

That is simply not happening. The residents of Tuross Head are not looking forward to the forthcoming tourist season. Many retirees live in fear and dread this time of the year. They are afraid to leave their homes to shop or to have a social life outside their own neighbourhood. The people of Tuross and Moruya are still waiting for the Carr Government to fulfil the promises made in 1995 and 1999. Since the Carr Labor Government was elected, figures released by the Bureau of Crime Statistics and Research show that break and enters have increased by almost 26 per cent, with more than 77,000 houses burgled last year. Assaults have risen by 47 per cent and sexual assaults have risen by 30 per cent. Compared with other States, with the exception of Western Australia, the New South Wales crime rate is far worse now than it was in 1995.

Not surprisingly, the Australian Bureau of Statistics has also revealed that more than 50 per cent of residents think that crime is a major problem in their neighbourhood. No wonder there is such job dissatisfaction in the police department across New South Wales. I call upon the Government to open a police station at Tuross Head, if not on a permanent basis, then at least over the busy tourist season when the population explodes with holiday-makers. I also demand that staff numbers at Moruya police station be increased to allow police to work safely and more effectively.

CHESTER HILL NEIGHBOURHOOD CENTRE

Mr TRIPODI (Fairfield) [1.51 p.m.]: I draw to the attention of honourable members the wonderful work of the Chester Hill Neighbourhood Centre. On the night of 27 September I had the pleasure of attending the annual general meeting of the neighbourhood centre. The centre has achieved a great sense of community spirit over the years. On the night it was a great pleasure for me to learn about the work of the neighbourhood centre. On the night there was entertainment, acknowledgement of the achievements of the centre and some of its students, socialising and a singalong. Generally it was a good night, with a cup of tea and food served at the end of it.

I take this opportunity to congratulate the management committee of the Chester Hill Neighbourhood Centre, including the president, John Killey, and his team. Also, special thanks and acknowledgement go to the highly respected manager of the centre, Dale Donadel, who holds the show together in very difficult circumstances. As honourable members know, neighbourhood centres and community centres are difficult to fund, and they are a great challenge for the people involved. I acknowledge the rest of the team working at the centre, including Phil Gray, the treasurer, Kanthi Vilat, the bookkeeper, and Ray Robb, the secretary.

Like most neighbourhood centres, Chester Hill Neighbourhood Centre has a mixture of paid and unpaid staff, and a range of volunteers link into the service. That ensures that the centre can achieve the most value for government moneys spent on such services. Linking into the community spirit enables the centre to function and to provide increased services. Unfortunately, this year's annual general meeting at the centre was marked by sadness because it was the first meeting since the passing of Valerie Torning. Valerie was a committee member and the very first volunteer community worker at the centre. She gave more than 30 years of service to the centre and was around almost from the beginning.

Valerie had recently been awarded life membership of the centre in recognition of her commitment to the centre. She passed away during the year after a difficult fight with cancer. I draw to the attention of honourable members the work she did over many years through the centre and other activities. I acknowledge and thank her and her family for the commitment she gave to the community of Chester Hill. Funding a neighbourhood centre is always a difficult task. One success of the Chester Hill Neighbourhood Centre is that it has been able to tap into all existing funding possibilities, including Federal, State and local government.

For example, the Department of Community Services funds the community service grants program, which includes a community worker, a generalist, vacation care, a youth project officer, and management and clerical staff. The Federal Government funds youth activities and a family liaison officer. The Federal and State governments also fund a range of other activities. In particular, I acknowledge Bankstown City Council. Councils are always pressured to provide funds to help the community. They best understand the needs of local communities because they are the level of government closest to the people. However, their budgets are always stretched and challenged. I congratulate Bankstown council on its commitment to Chester Hill Neighbourhood Centre over the years.

Although other levels of government always place pressure on local government budgets, Bankstown council has always provided assistance to the centre and listened to the needs of the centre. I congratulate Bankstown council on its attention and care in meeting the needs of the Chester Hill Neighbourhood Centre. Recently the centre purchased Elizabeth Marks House, its current premises. I am sure the workers are heavily engaged in and committed to the challenge of funding that purchase. I wish them the very best in that endeavour. I commend them for their commitment to securing the future of the centre. At the same time I acknowledge the ongoing commitment of the Department of Housing over the years, including the provision of the centre's current accommodation. [*Time expired.*]

WERRINGTON CREEK LANDCARE PROGRAM

Mr ANDERSON (Londonderry) [1.56 p.m.]: This afternoon I draw the attention of honourable members to a program of works taking place in my electorate of Londonderry. On 15 October I had the privilege and pleasure, on behalf of the Minister for Agriculture, and Minister for Land and Water Conservation, of launching a Landcare program along the banks of Werrington Creek. Werrington creek is significant in this part of my electorate because it drains the urban areas to the south of the Great Western Highway. The creek runs from Kingswood through to Cambridge Park, Werrington, including the Australian Defence Industries site, and into South Creek, which eventually becomes part of the Hawkesbury-Nepean system. It is quite a large urban area, and the significance of Werrington Creek cannot be underestimated.

The banks of Werrington Creek have been degraded over many years. Through the Department of Land and Water Conservation, Penrith City Council and the Werrington Landcare group, a concerted effort has been made to remediate many of the problems that have occurred in the area. The launch of this program was significant because Werrington Creek drains into Werrington Lake. Werrington lake is a fabulous place, a great recreational facility for the people in the local community. It is with great pleasure that I go for a walk regularly from my office around the banks of Werrington Lake. The creek feeds into the lake and drains out of it. Honourable members will appreciate that it is quite significant. Penrith council has put a great deal of resources into it. In order to enhance the drainage of the area the council has put in a gross pollutant trap and a drainage system to catch any of the rubbish that comes from the urban run-off. That in itself has resulted in the significant remediation of many of the problems associated with drainage into the creek.

On the day a number of children from the Uramie preschool centre came along to help us launch the program. They planted in the order of 80 trees, all natives to the area. The landcare group had harvested the weed along the banks and creek flats, and that allowed us to prepare the ground and plant the trees. It is significant that the children participated in the program, because in 20 years time they will the ones who will gain the benefit of this work. It could not have happened without the participation of the landcare group, the children, Penrith council and the Department of Land and Water Conservation.

This group effort by all interested parties is making Werrington creek a better and more environmentally sensitive place, and is enhancing the local urban area. The local people are very supportive of the program. We look forward to more funding, because the funds for the program have obviously come from money provided by the Department of Land and Water Conservation—$400,000 in the first round of funding. The Minister has promised another $400,000 in the future. A program of work is also continuing along the banks of the Hawkesbury and Nepean rivers system. The Minister has provided an additional $400,000 for works on the Nepean River system, south of Penrith.

The program, co-ordinated by the Department of Land and Water Conservation, is spread right around this region, which encompasses my electorate. I am very pleased to see this work taking place. We have talked about the environment, but we need to work on it. We need to stop talking and do something about it. The Minister is certainly doing that, providing funds and officers from within his department to work in co-ordination with Penrith council and the local landcare groups. I offer my congratulations to all groups because Werrington Creek is certainly a very pleasant place to spend one's recreational hours.

Private members' statements noted.

JUSTICE LEGISLATION AMENDMENT (NON-ASSOCIATION AND PLACE RESTRICTION) BILL

Bill introduced and read a first time.

Second Reading

Mr STEWART (Bankstown—Parliamentary Secretary), on behalf of Mr Whelan [2.03 p.m.]: I move:

That this bill be now read a second time.

This bill is a cornerstone of the Carr Government's comprehensive anti-gang package, which was announced by the Premier on 4 September. I am pleased that two parts of that package have already been passed by the Parliament. The Crimes Amendment (Aggravated Sexual Assault in Company) Act commenced on 1 October. That Act imposes a maximum sentence of life imprisonment for gang rapists, in recognition of the seriousness with which all sections of the community regard their terrible crimes. The Police Powers (Vehicles) Amendment Act was passed on 16 October. That Act gives police additional powers to stop vehicles reasonably suspected of having been used in connection with an indictable offence, and to ask all persons in the vehicle to provide information about their identities.

On 17 October the Attorney General introduced the Crimes Amendment (Gang and Vehicle Related Offences) Bill, which introduces higher penalties for the commission of certain gang-related offences in company; reforms kidnapping laws; creates a new offence of car-jacking, creates a new offence of threatening potential witnesses to prevent them from giving evidence, creates a new offence of recruiting children to commit a serious indictable offence; and creates new offences targeted at gang and other organised criminal involvement in car rebirthing. The Minister for Fair Trading has introduced amendments to the Motor Dealers Act and Motor Vehicle Repairs Act to further clamp down on gangs and other criminals who engage in organised motor vehicle theft. This bill complements those other important reforms, in that it targets the elements that are central to gang activity.

The 1995 United States of America Federal Bureau of Justice Assistance Youth Gang Survey recognised that gangs generally have a number of common characteristics, two of the most important being ongoing criminal association in a group, and identification with a particular territory or turf. This bill focuses on breaking down an offender's association with persons and places that increase the likelihood of their reoffending. The bill establishes non-association orders which prevent the subject of such an order from associating with specified persons. It also provides for place restriction orders, which prevent the subject of such an order attending a particular place or area. Non-association orders may be used to prevent a gang member from associating with other gang members. Place restriction orders target turf and, by extension, can also target gang associations,

The Carr Government has developed this bill, having regard to the success of the police drug bail scheme being trialled in Cabramatta. The Government has also considered the New Zealand Disorderly Assemblies and Restrictions on Association Bill, which was incorporated into New Zealand's Criminal Justice Amendment Act 1989. That Act provided for non-association orders to be made at sentencing. The bill before the House builds on the successful New Zealand model, making a number of improvements to better suit the needs of New South Wales. In addition, it also makes provision for the introduction of place restriction orders. It is important that these powerful new orders are not used to interfere with legitimate associations or to prevent ordinary law-abiding citizens from enjoying full access to the places they are entitled to attend.

For this reason, these orders will be linked to defined stages of the criminal justice process. They will not be used in respect to persons who have not been charged with or convicted of criminal offences. The Government realises the importance of independent monitoring and review of this legislation. Clause 5 of the bill requires the Ombudsman to monitor the Act for two years and to report on its operation. I will now address

the key provisions of the bill. Schedule 1 to the bill amends the Crimes (Sentencing Procedure) Act 1999 and the Children (Criminal Proceedings) Act 1987 to establish non-association and place restriction orders as a new form of sentence. The court, depending on the circumstances of the case, may impose one of two kinds of non-association order. The first kind of order, a limited non-association order, prevents the offender from having physical contact with a specified person or persons.

However, limited non-association orders may not be sufficient in all cases. We live in a world where criminals co-ordinate their criminal activity using a range of means, such as telephones and email. Gang members frequently use mobile phones to communicate with each other and to plan their crimes. Therefore the court, where it believes appropriate, will also be able to make an unlimited non-association order, which prevents the offender from communicating with a specified person or persons by any means. Non-association and place restriction orders can be imposed by the court where it believes it is reasonably necessary to ensure the offender does not commit further offences. This makes it clear that the aim of such orders is to prevent crime and to assist the rehabilitation of the offender by severing their ties with people or places that make them more likely to engage in criminal activity.

A breach of these orders needs to be taken seriously if they are to successfully deter offenders from inappropriate associations or access to places. New Zealand legislation on which the bill is partially modelled recognised that a breach of such an order should itself be a minor criminal offence. This bill takes the same approach. Proposed section 100E of the Crimes (Sentencing Procedure) Act creates a criminal offence where an order is contravened without reasonable excuse. The penalty for such an offence is a maximum of six months imprisonment and/or a fine of $1,100. New section 100E does not provide an exhaustive list of what constitutes a reasonable excuse. This is ultimately a matter for the courts to consider on a case-by-case basis. However, it does recognise that an offender who has unintentional contact with a person with whom they are not to associate, and who immediately terminates that contact, does not contravene a non-association order.

New section 17A (4) of the Crimes (Sentencing Procedure) Act makes it clear that non-association and place-restriction orders may be made in addition to, but not instead of, other sentencing options. This gives courts increased flexibility in sentencing. For example, courts will be able to impose a non-association order with a community service order, a fine, or a periodic detention order. This approach prevents the new orders being used as an alternative to stronger sentences. If this approach were not taken, some courts might use the new orders to water down the sentences they would have otherwise imposed. For the same reason, the new orders will not be able to be made where the charges are dismissed at sentence, where an offender is dealt with under the Young Offenders Act 1997, or where final sentence is deferred pursuant to a Griffith's bond under section 11 of the Crimes (Sentencing Procedure) Act.

Non-association and place-restriction orders may only be made for offences punishable by six or more months imprisonment as it would be inequitable for the punishment for the breach of the order to exceed the penalty for the offence to which the order attaches. Limiting the application of the orders to offences carrying imprisonment for six months or more will also ensure that the orders are not used in connection with minor summary offences such as offensive language. The Government recognises that an offender's personal circumstances will change over time and that non-association and place-restriction orders made at sentencing should not have an indefinite life, particularly as criminal penalties attach to a breach of an order.

As is the case in New Zealand, the bill enables the court to set the period for such an order, with that period not to exceed one year. These orders are meant to operate whilst an offender is in the community. Accordingly, new section 100D of the Crimes (Sentencing Procedure) Act provides that an order is suspended whilst an offender is in custody or on escorted leave from custody. This means that an offender who receives a non-association order for one year, concurrent with a sentence of imprisonment for six months, will be subject to the order for the six months after their release from prison.

New section 100A of the Crimes (Sentencing Procedure) Act recognises that non-association and place-restriction orders should not be imposed where the burden of such an order would be unreasonable and frustrate the offender's reintegration into the community. Therefore the bill does not allow non-association orders to be made to prevent an offender from associating with members of their close family. Place-restriction orders cannot be made to prevent a person from attending a place which, at the time the order is made, includes their home, the home of a close family member, a place of work at which the offender is regularly employed, an educational institution at which the offender is enrolled, or a place of worship regularly attended by the offender.

New section 100B of the Crimes (Sentencing Procedure) Act requires the court to explain to the offender his or her obligations under the order and the consequences of breaching the order. Schedule 1.2 of the

bill amends the Criminal Appeal Act 1912 to make it clear that a non-association or place-restriction order can be appealed in the same manner as any other sentence. In New Zealand, some commentators have suggested that the lodging of an appeal can be used to frustrate a non-association order, as the order will generally be suspended pending the resolution of the appeal. Therefore the time taken to finalise the appeal will shorten the length of the order. In some cases, it may render the order completely ineffective.

New section 100C of the Crimes (Sentencing Procedure) Act counters this by providing that if an appeal is lodged and dismissed, the order commences from the date of the appeal being dismissed, not the date of sentence. New section 100F of the Crimes (Sentencing Procedure) Act provides that a court that sentences an offender for a new offence, whilst the offender is subject to a non-association or place-restriction order, may vary or revoke that order. This gives the court maximum flexibility. It can change an order that is no longer appropriate, as well as impose a further order in respect of the new offence.

New section 100G of the Crimes (Sentencing Procedure) Act recognises that an offender's circumstances may change during the life of a non-association or place-restriction order. For example, an offender's mother may move to an area that they may not be allowed to go to under a place-restriction order. The bill allows offenders to apply to the local court for the variation or revocation of an order that is no longer appropriate. The court will not grant leave to make such an application unless it is satisfied that, having regard to the offender's changed circumstances, it is in the interests of justice to hear the application. The Local Court may refuse to entertain applications it believes are frivolous or vexatious.

A Local Court magistrate may vary or revoke orders made by a higher court. In doing this, the magistrate is not reviewing the order of a higher court, which was appropriate at the time it was made, but is considering whether the order remains relevant in light of matters that have subsequently arisen. A similar arrangement exists at section 114 of the Crimes (Administration Of Sentences) Act 1999, where a Local Court may consider changed circumstances in extending the period of a community service order imposed by a higher court. The Commissioner of Police has the right to appear in support of, or opposition to, any application for variation or revocation of a non-association or place-restriction order

New section 100H of the Crimes (Sentencing Procedure) Act is a key provision of the bill. Persons named in non-association orders other than the offender, may not themselves be currently before the courts for a criminal offence. Any publication of their name in open court may result in inappropriate adverse inferences being drawn against them. New section 100H therefore makes it an offence to publish the name of such a person, or any information calculated to identify them. The offence carries a maximum penalty of $1,100. Section 100H does not prevent the publication of the person's name to the offender, any person named in the order, the bodies responsible for administering the order or the accompanying sentence, the Police Service, any person involved in proceedings for the breach of an order, any other person approved by the court, or any person to whom such information is required to be disclosed under any law.

The bill not only provides for non-association and place-restriction orders to be made at sentencing: It amends relevant legislation to specifically recognise that non-association and place-restriction conditions may be attached to bail, unescorted leave from custody, conditions of home detention imposed by the Parole Board upon revocation of periodic detention, and parole. Most of these provisions are in schedule 2 to the bill. Non-association and place-restriction conditions may already be imposed under the general condition-making powers that attach to bail, leave, parole, and revocation of periodic detention.

Recently police officers have begun to use the general condition-making powers of the Bail Act 1978 to attach place-restriction conditions to police bail. From 1 July to 26 September 2001, under the new Police Drug Bail Scheme in Cabramatta, the Region Target Action Group and local police imposed place-restriction conditions on the bail of 144 persons, ordering that they not return to Cabramatta. Express legislative recognition of non-association and place-restriction conditions will require bodies with bail, parole and leave management responsibilities to specifically consider the appropriateness of such orders, thereby promoting their further use.

The amendments contained in schedule 2.1 to the bill give legislative recognition to non-association and place-restriction conditions of bail and make consequential amendments to the Bail Act. Importantly, new section 36C of the Bail Act prohibits the publication of the identity of persons named in non-association bail conditions, other than the identity of the accused. Currently there is no such protection for non-association conditions imposed under the general bail condition-making powers of the Bail Act. Schedule 2.2 [l] to the bill will encourage the Department of Corrective Services to consider the appropriateness of attaching non-association and place restriction conditions to leave permits authorising unescorted leave.

Schedule 2.3 contains similar arrangements in respect to leave granted to juvenile detainees by the Department of Juvenile Justice. There is no need to create new provisions to protect the identity of persons named in non-association conditions of leave, given the existing disclosure provisions of the Crimes (Administration of Sentences) Act 1999 and the Children (Detention Centres) Act 1987. The Crimes (Administration of Sentences) Regulation 2001 already explicitly recognises that parole officers may attach non-association or place-restriction conditions to parole. Parole officers are currently using those powers. The bill extends the specific recognition of non-association and place-restriction parole conditions to parole determined by the sentencing court, the Parole Board and the Children's Court.

Schedule 1.1 adds new section 51A to the Crimes (Sentencing Procedure) Act to recognise that the sentencing court may impose non-association and place-restriction conditions on parole. If those conditions are no longer appropriate when the offender is released, the Parole Board or Children's Court may vary or revoke the conditions in accordance with section 128 (2) (a) of the Crimes (Administration of Sentences) Act. New section 51B prevents the improper publication of the identity of a person named in a non-association condition of parole imposed by the court at sentencing. Proposed section 128A of the Crimes (Administration of Sentences) Act will allow the Parole Board to explicitly consider the appropriateness of attaching non-association or place-restriction conditions to parole.

Proposed section 165A of that Act recognises that the Parole Board may impose such conditions when ordering that a person subject to periodic detention enter into home detention. The breach of a non-association or place-restriction condition of bail, leave, parole or home detention will be treated in the same manner as the breach of any other condition attaching to those stages of the justice process. This bill is supported by the New South Wales Police Service. It will target gangs, break down criminal associations, promote the rehabilitation of offenders, and assist in preventing crime. I strongly commend the bill to the House.

Debate adjourned on motion by Mr R. H. L. Smith.

House adjourned at 2.25 p.m. until Tuesday 6 November 2001 at 10.00 a.m.