

# LEGISLATIVE ASSEMBLY

Friday 30 November 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.

## **CRIMES (SENTENCING PROCEDURE) AMENDMENT (GENERAL SENTENCING PRINCIPLES) BILL**

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

### **BILL RETURNED**

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

Workers Compensation Legislation Further Amendment Bill

**Consideration of amendments deferred.**

### **PUBLIC ACCOUNTS COMMITTEE**

#### **Membership**

**Mr SPEAKER:** I report the receipt of the following message from the Legislative Council:

Mr SPEAKER

The Legislative Council desires to inform the Legislative Assembly that it has this day agreed to the following resolution:

1. To seek the concurrence of the Legislative Assembly to the appointment of three Members of the Legislative Council to the Public Accounts Committee.
2. That the Members from the Legislative Council shall be those Members elected from time to time to reflect the party composition of the House.
3. That, in the event that the Legislative Assembly declines the proposal, this House refers the matters currently under inquiry by the Public Accounts Committee for consideration and inquiry by General Purpose Standing Committee No. 1.

Legislative Council  
29 November 2001

MEREDITH BURGMANN  
President

**Consideration of message deferred.**

## **CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT (PERMANENCY PLANNING) BILL (No 2)**

### **In Committee**

**Consideration of the Legislative Council's amendments.**

*Schedule of amendments referred to in message of 28 November*

No. 1 Page 5, Schedule 1 [7], lines 16B20. Omit all words on those lines. Insert instead:  
arrangements.

No. 2 Pages 5 and 6, Schedule 1 [7], line 23 on page 5 to line 20 on page 6. Omit all words on those lines. Insert instead:

- (3) A permanency plan for an Aboriginal or Torres Strait Islander child or young person must address how the plan has complied with the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles in section 13.

- (4) If a permanency plan indicates an intention to provide permanent placement through an order for sole parental responsibility or adoption of an Aboriginal or Torres Strait Islander child or young person with a non-Aboriginal or non-Torres Strait Islander person or persons, such an order should be made only:
- (a) if no suitable permanent placement can be found with an Aboriginal or Torres Strait Islander person or persons in accordance with the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles in section 13, and
  - (b) in consultation with the child or young person, where appropriate, and
  - (c) in consultation with a local, community-based and relevant Aboriginal or Torres Strait Islander organisation and the local Aboriginal or Torres Strait Islander community, and
  - (d) if the child or young person is able to be placed with a culturally appropriate family, and
  - (e) with the approval of the Minister for Community Services and the Minister for Aboriginal Affairs.
- No. 3 Page 8, Schedule 1 [10], lines 1-3. Omit all words on those lines. Insert instead:
- (b) that prior to approving a permanency plan involving restoration there is a realistic possibility of restoration having regard to:
- No. 4 Pages 9 and 10, Schedule 1 [13], line 30 on page 9 to line 3 on page 10. Omit all words on those lines. Insert instead:
- (2A) Before granting leave to vary or rescind the care order, the Children's Court must take the following matters into consideration:
    - (a) the nature of the application, and
    - (b) the age of the child or young person, and
    - (c) the length of time for which the child or young person has been in the care of the present carer, and
    - (d) the plans for the child, and
    - (e) whether the applicant has an arguable case.
- No. 5 Page 10, Schedule 1 [14], lines 6B20. Omit all words on those lines. Insert instead:
- (3A) If:
    - (a) an application is made to the Children's Court by a person or persons (other than the Director-General) for the rescission or variation of a care order (other than a contact order) in relation to a child or young person, and
    - (b) the application seeks to change the parental responsibility for the child or young person, or those aspects of parental responsibility involved in having care responsibility for the child or young person, and
    - (c) the Director-General is not a party to the proceedings,
 the applicant must notify the Director-General and the Children's Guardian of the application, and the Director-General and the Children's Guardian are entitled to be parties to the application.
- No. 6 Page 10, Schedule 1. Insert after line 31:
- [17] Section 135 What is "out-of-home care"?**
- Omit section 135 (1) (b). Insert instead:
- (b) by a person, other than a parent of the child or young person, and
- [18] Section 135 (2)**
- Insert after section 135 (2) (a):
- (a1) any care provided by a relative of a child or young person unless:
    - (i) the Minister has parental responsibility for the child or young person by virtue of an order of the Children's Court, or
    - (ii) the child or young person is in the care of the Director-General, or
- No. 7 Page 11, Schedule 1 [17], lines 4B16. Omit all words on those lines. Insert instead:
- (1) An authorised carer who, for a continuous period of not less than 2 years, has had the care of a child or young person, for whom the Minister (either alone or with another person or persons) has parental responsibility, may apply to the Children's Court for an order awarding sole parental responsibility for the child or young person to the authorised carer, subject to this section.

No. 8 Page 11, Schedule 1 [17], line 26. Insert "The Children's Court must be satisfied that the consent has been properly given on an informed basis." after "Minister."

No. 9 Page 12, Schedule 1. Insert after line 34:

**[18] Section 150 Review of placements effected by order of Children's Court**

Omit "A review" from section 150 (2).

Insert instead "Except as provided by subsection (3A), a review".

**[19] Section 150 (3A)**

Insert after section 150 (3):

(3A) In the case of a child or young person who has been placed in the care of a relative, reviews are to be conducted at intervals prescribed by or in accordance with the regulations.

No. 10 Page 13, Schedule 1 [20], lines 8-30. Omit all words on those lines. Insert instead:

**[20] Section 265 Review of Act**

Omit section 265 (2). Insert instead:

(2) The review is to be undertaken as soon as possible after the period of 4 years from the date of assent to the Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001.

(2A) The review is to consider, in particular, the effects of the provisions in this Act for permanency planning on Aboriginal and Torres Strait Islander children and young persons.

**Mrs LO PO'** (Penrith—Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women) [10.02 a.m.]: I move:

That the Legislative Council's amendments be agreed to.

**Mr HARTCHER** (Gosford) [10.02 a.m.]: I acknowledge that the Government accepts the amendments of the Legislative Council, but I point out that the repeated pattern of this Government, including this Minister, is to accept amendments when they come before this Chamber and then not proclaim the relevant sections of the Act. I am curious to know whether the Minister is prepared to indicate that she will make sure this section as amended is proclaimed in the Act or whether the Government will continue its duplicitous policy, which it plays out again and again with amendments passed by the Legislative Council that it does not proclaim. Shortly we will debate the amendments to the workers compensation bill. When a section of that Act was amended the Government said that section had never been proclaimed. Is the Minister prepared now to reply—

**Mr Whelan:** Time for questions has expired.

**Mr HARTCHER:** The time for questions has expired but the time for raising important issues that concern the people of this State has not expired and never will. The time for the Minister to say, "Yes, I am going to carry out the will of Parliament and not my own personal will" is not going to expire. It is over to the Minister. Is she going to proclaim it?

**Motion agreed to.**

**Legislative Council's amendments agreed to.**

**Resolution reported from Committee and report adopted.**

**Message sent to the Legislative Council advising it of the resolution.**

**GAMING MACHINES BILL**

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

**Second Reading**

**Mr FACE** (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [10.05 a.m.]: I move:

That this bill be now read a second time.

The bill I am introducing today marries the many pioneering measures the Carr Labor Government has initiated in this area since 1995—with a new and unprecedented set of reforms—into one comprehensive package. I apologise for the length of time taken to introduce this bill, but there are several reasons for the delay. Of course, one reason was to provide a cooling-off period so that we were able to obtain the best possible consensus on these measures and at the same time follow my procedural pattern as Minister to make certain that as few amendments as possible would be made to the bill or that it should be reintroduced. The other reason was that the bill is fairly voluminous, comprising 189 pages, and amounts to a rewriting of the Act.

The Gaming Machines Bill lays out very clearly the strategy for future gaming machine regulation and confirms this State's elevation to the front rank of world gaming regulators. But most importantly, in terms of its specific gambling harm minimisation measures, this legislation is undoubtedly the most substantial and most interventionist in the world, and we make no apologies for it. On 26 July 2001 the Treasurer and I jointly announced the Government's plan for gaming reform in New South Wales. The key measures in the package are aimed at addressing community concerns about the increasing number of gaming machines in the community, and introducing further controls to reduce any harm associated with problem gambling.

Under the proposed legislation, the previous automatic entitlement of clubs and hotels to install gaming machines will be abolished. The current numbers of gaming machines will be frozen, and the only way that clubs and hotels will generally be able to acquire additional machines in future will be to purchase the right to keep those machines from other premises. At the time of the announcement, it was noted that the development of a new scheme for transferable entitlements for gaming machines was such a significant reform that the Government was keen to involve key industry bodies in the development of that scheme. As I said in my opening remarks, that process took time and delayed presentation of this bill.

Since the announcement, there has been extensive consultation and negotiation with ClubsNSW, the Australian Hotels Association [AHA] (NSW), Star City and a variety of community representatives and organisations. I thank each and every one of them because the procedure was undertaken rationally. Obviously they were safeguarding their members' interests, but I believe it has brought about better legislation. As a result of those discussions, some pragmatic changes have been made to the initial proposals and, quite frankly, some strengthened harm minimisation measures have been added. I am satisfied that the resulting package of proposals represents a balanced approach to curtailing the growth of gaming machines in New South Wales while at the same time ensuring that the hotel and club industries will not be driven into the ground and are allowed to continue to trade profitably. I now turn to the detail of the legislation.

Prior to 1997 clubs could not operate approved amusement devices and hotels could not operate poker machines. In 1997 the legislation was amended by cross-applying relevant provisions of the Registered Clubs Act to hotels in respect of poker machines, and by cross-applying relevant provisions of the Liquor Act to registered clubs in relation to approved amusement devices [AADs]. The overall legislation is complex, unwieldy and incomprehensible to all but a few specialist lawyers. Therein lies cost imposts on industry—costs that, in turn, are passed on. It is proposed to take this opportunity to transfer all gaming machine provisions relating to clubs and hotels from the Liquor and Registered Clubs Acts, and place them in a new Gaming Machines Act. As I said earlier, this bill, which is a complete rewrite of the Act, is fairly voluminous.

The new Act will also require a new Gaming Machines Regulation to be made, incorporating all the current gaming machine related clauses under the Liquor and Registered Clubs Regulations, as well as new regulations required to give effect to the gaming machine reform package. The new regulation will be made in accordance with the requirements of the Subordinate Legislation Act, which will mean that a regulatory impact statement and draft regulation will be issued for public comment after the bill has received assent. I would like to turn now to the details of the statewide and venue limits for gaming machines in clubs and hotels. The announcement on 26 July indicated that there would be an overall cap of 104,000 on the total number of gaming machines in clubs and hotels in New South Wales. The bill specifies that this limit is to be broken down into a cap of 25,980 gaming machines in hotels, and 78,020 in registered clubs.

The bill also specifies that the maximum number of gaming machines that can be kept by a single hotel is 30. The current restriction on poker machine numbers for hotels will be removed. In line with the announcement, each club premises is to be limited to a maximum of 450 gaming machines. Clubs with more than 450 machines will be required to shed 10 per cent of their machines over a five-year period, except when to do so would result in the club having fewer than 450 machines. The key features of the transferable entitlement scheme are as follows. Poker machine entitlements will be issued for all poker machines which clubs and hotels are entitled to keep as at the date of the relevant freeze—which is 28 March 2000 for clubs and 19 April 2001 for hotels.

Clubs can sell their entitlements to other clubs, hotels can sell their entitlements to other hotels, but for every two entitlements sold, another one must be forfeited into a forfeiture pool. Forfeiture will not be required if a club or hotel is moving to a new venue within one kilometre, which I believe to be a reasonable requirement. It would be an onerous provision if the lease on a premises expired and a club owner was held to ransom. I modelled that provision, to some degree, on legislation that defined wine bars some years ago. If a hotel licence or a club is moved to a venue more than one kilometre away, one entitlement will need to be forfeited for every two machines that are moved.

New clubs and existing clubs with fewer than 10 poker machines will be able to apply for up to 10 free entitlements. New clubs will include existing clubs that establish additional premises. The free entitlements will not be transferable for a period of three years. So clubs will not get a windfall. This provision is intended to try to assist in the establishment of clubs mainly in those areas where development is taking place, such as in suburban or outer suburban areas. AADs will not be able to be transferred to another hotel or club. However, hotels in metropolitan areas may apply for one poker machine entitlement in return for surrendering three AADs. Hotels in country areas may apply for one poker machine entitlement in return for surrendering two AADs. Poker machine entitlements exchanged in return for AADs will not be transferable for a period of three years.

Country hotels will be permitted to transfer a maximum of two entitlements per year to metropolitan hotels—with another one required to be forfeited to the pool. If a hotel or club licence is surrendered or cancelled, a period of 12 months will be allowed for all entitlements to be transferred to another hotel or club. After 12 months, any remaining entitlements will also be forfeited. I think that that measure will prevent owners from sitting on a licence, in some cases denying people in the country access to an hotel. Representatives of the struggling Australian Hotels Association of New South Wales have raised with me their concerns about the plight of small country hotels—an issue about which I am deeply concerned—that is, country hotels which currently have fewer than nine gaming machines. They have indicated that there is a fear that these small country hotels will be seriously affected by the proposed new measures, to the extent that some may be forced out of business. The association has also raised a concern that it will be difficult in future for new hotels to be established in developing areas.

I have indicated to the association that I will monitor the impact of the measures on small country hotels, and hotels in developing areas. The association has sought further concessions for these hotels, and I have indicated that if any favourable consideration is to be given to these concessions in the future, that consideration will require a clear business case to be provided by the association, which establishes that hotels in these categories are suffering serious difficulty as a direct result of the Government's gaming reform package. One of the contentious issues involved in the formulation of this legislation involved ownership rights. The hotel industry has expressed strong interest in which party or parties will have the beneficial ownership of the new poker machine entitlements.

It is not proposed to confer ownership rights through the legislation. Entitlements will be issued in respect of a particular hotel licence or a certificate of registration for a club. In the case of a hotel, the licensee will be permitted to apply for the transfer of entitlements to another licence, provided the licensee can satisfy the board that the licence owner has consented. Many hotel licences are owned by one party and leased to another under contracts that may last as long as 20 years. There is concern that lessors may attempt to force the lessee from the business, thereby allowing the lessor to take advantage of the poker machine entitlements that are issued in respect of the licence. The bill includes a savings provision to give protection for the existing contractual rights of lessees.

In relation to hardship cases, the announcement of 26 July indicated that suitable transitional arrangements would be developed for hotels. The bill will allow hotels to apply for free entitlements under a new hardship scheme—bearing in mind that the hardship scheme set up for clubs, upon the announcement of the freeze, did not apply. Nor did I bring in the hardship provisions following the announcement earlier this year of the freeze regarding hotels. Applications will be able to be submitted for hotels falling into one of four categories: one, hotels that had applied to install additional machines at the date of the announcement of the hotel freeze, that is 19 April 2001; two, applicants for a new or renewed hotel licence, where the application had obtained a conditional grant by 19 April 2001; three, applicants who can establish that they had entered into a contract for significant building or refurbishment work prior to 19 April 2001; and, four, other extreme cases of financial hardship.

I emphasise that applications made under the fourth category will be required to demonstrate serious financial hardship unless the application is granted. Serious financial hardship will mean a significant financial

loss to the business as a whole. As I said earlier, clubs have been able to apply for additional machines under hardship provisions that formed part of the club gaming machine freeze which took effect on 28 March 2000. There are still some outstanding hardship applications that have been lodged under the present legislation, and new applications continue to be submitted each week.

The current hardship provisions have not been interpreted as strictly as intended, and some 1,600 additional gaming machines have been granted to clubs since the freeze commenced. Any applications made since 26 July 2001 will be subject to new, more restrictive hardship requirements. Applications made before 26 July 2001, but not dealt with by the date of the commencement of the legislation, will still be subject to the current law, but will have to be determined within three months of the commencement of the legislation if new machines are to be granted. Applications refused by the board before 26 July 2001, but subsequently reconsidered and granted, will generally be deemed null and void. If the applicant wishes to bring new material to the attention of the board for reconsideration, the application will be deemed to be a new application made after 26 July 2001.

However, like everything, exemptions will be able to be made in exceptional circumstances. Hardship entitlements granted to both clubs and hotels will not be transferable for a period of three years after the date that the entitlements were granted. If a club or hotel wishes to sell any of its standard poker machine entitlements within that three-year period, it will be required to forfeit its hardship entitlements first. The board will not be permitted to allocate hardship entitlements unless there are sufficient forfeited entitlements in the relevant pool. In other words, it is not intended that the current number of 104,000 machines will be exceeded.

I turn now to social impact assessments. Currently, applications in relation to new clubs and hotels, or for additional gaming machines in clubs, must be accompanied by a social impact assessment [SIA]. The current SIA process does not apply to existing hotels that seek to enhance their gaming machine operations, or to hotels that seek to relocate within the same neighbourhood. The announcement of 26 July indicated that the Government would extend the SIA process to existing hotels and to hotels that seek to move to another location in the same neighbourhood. While all applications to increase gaming machine holdings are to be subject to social impact assessment in future, it is not intended that the process should be extremely onerous or expensive in cases where it could be expected that the social impact of the additional machines would be small.

It is proposed to establish, for the first time, a two-tiered SIA process with the following elements. The first is that SIAs will not be necessary whenever a liquor licence transfers from one party to another, as long as the number of machines at the premises does not increase and the licence is not removed to another premises. The second is that SIAs will fall into two categories—class 1 and class 2. Class 1 SIAs will be required to provide basic information. Class 2 SIAs will require significantly more information, and will need to satisfy a net economic and social impact benefit test. Class 2 SIAs will also be required to satisfy prescribed consultation requirements. I have received expressions of concern about the costs of the more onerous SIAs. I hope that, with co-operation, part of the requirements can be satisfied more generically, thereby limiting the costs. It seems that some people are making quite considerable sums of money from the present system.

The third element is that class 1 SIAs will be required when the size of the increase proposed is less than a prescribed number—say five—over a three-year period. Provision will be made to prescribe a different number for hotels and clubs, if required. Hotels and clubs will not be permitted to increase their machine holdings by more than the relevant prescribed number in a three-year period without undergoing a class 2 SIA. The fourth element is that class 2 SIAs will not be required when the increase in gaming machines is as a result of a transfer of entitlements from one venue to another within a radius of one kilometre of the original location. In those cases, class 1 SIAs will be sufficient. In the metropolitan area, in respect of a club that is practically next door to another in an area where those entitlements already exist, the onerous SIA will not be a requirement. The same provision applies in country centres, but in that case the radius will be 50 kilometres of the original location. I will give the reasoning for that.

The board will determine SIAs subject to any directions or guidelines that the Minister may issue from time to time. In determining a class 2 SIA, the board must be satisfied that the net economic and social impact of approving additional gaming machines in the local government area will not be detrimental to the wellbeing of the community in that area. Other requirements for class 1 and class 2 SIAs will be prescribed in the gaming machines regulation. The 26 July announcement stated that tighter controls would be implemented to make it much harder for the development of "shopfront gambling dens" posing as hotels.

It is proposed to adopt these tighter measures through the SIA process. For example, it has been proposed that the board will be restricted in the number of additional machines that can be authorised under an

SIA application, depending on the total floor space of the premises. I wish to remind those involved in hotels that their primary purpose is the serving of liquor and food. I have issued a public warning that if the primary purpose of that business effectively becomes gaming, those operations will be looked at. I warn the operators now that although they have been given machines, and quite rightly so, if that secondary purpose of the business becomes its primary purpose the consequence will be that those establishments will come under notice.

I now turn to amalgamation of clubs, a matter that for some time has been of considerable concern to me, the community and those involved in the club industry. Some time ago I issued a discussion paper on club amalgamations. There was some criticism of my doing so. That concern had been expressed over a considerable period by various sections of the club industry and the community. Everything in the discussion paper related to what I had heard or what had been put to me on that occasion. That is why the issues were so wide ranging. I repeat, it was a discussion paper; it was designed to evoke discussion with a view to obtaining a final result. I thank those who had an input in the discussion paper, making it a very worthwhile exercise. My issuing of that discussion paper has allowed something to be done in this legislation about the issues raised in that process.

Amalgamations are to be limited to no more than four per club. The number of all original clubs are to be counted within this threshold, including all "child" clubs and "grandchild" clubs, where applicable. However, there will be an exception to the limit of four amalgamations per club when a club amalgamates with another club that is located within the same district. In the case of clubs in metropolitan areas, clubs will be able to amalgamate with other clubs within a radius of one kilometre without that amalgamation being counted towards the ceiling of four.

The reasoning behind that, as I said earlier, is to accommodate clubs that are practically next door to each other, where the population of machines had not changed. In that instance, in fairness, a club needs to be able to amalgamate with another club in the immediate area without being penalised. It could be a bowling club next door to an RSL club. I can think of one such case in the Hunter region. In non-metropolitan areas, clubs will be permitted to amalgamate with an unlimited number of clubs within a radius of 50 kilometres. In my extensive travels in the country I noted some clubs in nearby towns that had, for various reasons, sliding populations. In some such circumstances it may be appropriate for a club located in the larger town to be able to take over the smaller club. At the end of the day, that entity survived.

Nobody has to make out a case to me on how important clubs—bowling and golf clubs especially—are in small country towns. In addition to what I have been able to do by way of legislation, I hope that some of the clubs in the metropolitan area adopt some of their less fortunate cousins in the country, otherwise amenities may be lost. I remember that the people of one particular western country town were obliged to drive 85 kilometres to participate in lawn bowls because their amenity was lost. That happens, unfortunately, because another club had out-traded so badly that the lawn bowls club was placed into receivership, which is not in keeping with the spirit of the clubs movement. Nevertheless, I know of cases in which similar predicaments can arise, and a particular case of which I am aware is in the immediate Tamworth area. I do not propose to name the town in that area that has experienced a considerable decline in population in recent times and whose clubs' survival may be in question in the long term.

Questions have been asked about the definition of "metropolitan area" and "non-metropolitan area". Under the Act the definition of "metropolitan area" includes the local government areas that make up the following regions: the Sydney statistical division, Newcastle and Lake Macquarie, and Wollongong. In the Hunter region the question is often asked about whether Port Stephens and Maitland are included in the designated metropolitan area. The answer is that they are not. The metropolitan area includes Newcastle and Lake Macquarie. That designation was made in other legislation for quite obvious reasons. The maps showing the statistical divisions have been made available to the Australian Hotels Association [AHA], and if Clubs New South Wales does not have the maps they will be made available for the information of its membership.

The Sydney statistical division is defined by the Australian Bureau of Statistics as stretching from Gosford to Wyong in the north, to the Blue Mountains in the west and to the south almost to Helensburgh. All the other areas other than Sydney, Newcastle and Lake Macquarie, and Wollongong will be treated as non-metropolitan areas. In other words, premises that are not in the designated metropolitan areas will be classed as country areas and that will make some difference in terms of qualifications. Clubs which already have amalgamated with more than four other clubs will be permitted to retain those amalgamations. In other words, there is a grandfather clause. Further, the limitation on four amalgamations is to be subject to an exception where clubs that had made firm commitments to amalgamate prior to the Government's announcement on 26 July 2001 will be able to do so, even if that entails more than four "child" clubs.

I have heard of an instance involving other clubs taking the view that they can continue to amalgamate or get into forms of amalgamation until such times as this legislation is proclaimed. There must be no mistake about this: This will not be done on the basis of their say-so. They will have to prove that they had firm commitments to amalgamate prior to the Government's announcement on 26 July 2001, and those clubs are the only ones that will be eligible to do so. Other controls over amalgamations are to be introduced and are aimed at preserving the assets of the "child" club. This will ensure that members of both clubs are fully informed of all relevant details before voting on the amalgamation. While my discussion paper was in circulation and during a recent process of amalgamations there were expressions of concern about this. There will be more responsibilities associated with this change, especially in requirements to inform the membership of the relevant details of voting and amalgamations.

The package announced by the Treasurer and me on 26 July 2001 stated that gaming machine operations in clubs would be required to close down for six hours each day. In the course of consultations over the details of the package, Clubs New South Wales and the AHA presented persuasive arguments on the impact of the immediate six-hour daily closure of their operations. That has been one of the good things about the cooling-off period or the buffer period between 26 July and the present time. The Government does not wish to put the jobs of club and hotel employees at risk, nor does it want to suddenly inconvenience club and hotel patrons who may need some time to adjust to the proposed trading hours. To a large extent, the final decision has been brought about as a result of observations made by officers of my department. On several occasions my departmental officers observed certain scenes at certain times of the day and I thought that was a worthwhile exercise which enabled me to reach some conclusions.

The Government also heard views put forward by highly respected community representatives, such as Reverend Chester Carter from the New South Wales Council on Problem Gambling and Reverend Harry Herbert from Uniting Church Care, on the importance of an extended shutdown period for problem gamblers. I must say that they have taken a very objective view about what the Government is trying to do, and I thank them for that. After considering the arguments on proposals put forward by the industry association and those community groups, the Government still intends to pursue a mandatory standard six-hour shutdown period for gaming machines in the long term. However it is now proposed to allow a phasing-in period from the commencement of the legislation until 30 April 2003 and during that period clubs and hotels will be required to turn off the gaming machines for three hours each day between 6.00 a.m. and 9.00 a.m. From 1 May 2003 the general shutdown period will be the full six hours from 4.00 a.m. until 10.00 a.m. However, clubs and hotels will be permitted to apply to have the mandatory shutdown period on Saturdays, Sundays and public holidays reduced to three hours from 6.00 a.m. to 9.00 a.m.

I foreshadowed this move at the annual conference of Clubs New South Wales which was held recently at the Tweed. Any clubs and hotels which seek to take advantage of this arrangement after 1 May 2003 and do not close for the full six-hour period on Saturdays, Sundays and public holidays will be required to obtain the approval of the relevant local government authority and will also be required to comply with additional harm minimisation measures which are prescribed in the regulations. Also clubs and hotels that can satisfy the Liquor Administration Board that they had a history of trading as early openers prior to 1997 will be permitted to apply for a three-hour or six-hour closure period that is different to the standard. Any alternative non-closure periods will have to be in line with their previous trading hours.

The question may be asked: What is so significant about 1997? That is when hotels were permitted to install poker machines. I believe it is fair for those who have had a practice and a history of early trading—for example, in the markets area where early traders have existed since time immemorial and areas around harbours—to continue in that manner. It has been brought to my notice that on the North Coast a lot of fishermen frequent a particular venue at a particular time of the day. The venue has a history of being an early opening establishment prior to 1997 and it will be permitted to continue to do so. People should not get carried away and think that the permission relates to an extension of hours. Those establishments will be confined to trading for the times that have been approved on the basis of its history and trading pattern. This provision has been included in recognition of a matter that initially was not taken into account in July this year. To be eligible for a variation in closure hours, each club and hotel will be required to demonstrate that it was open for business before 10.00 a.m. on at least one day of the week on a regular basis before 1 January 1997. This is what is known as the early opener variation and that will also be available under the three-hour interim shutdown arrangements.

I turn now to other harm minimisation measures included in the legislation. Very significantly, the bill will prohibit all off-premises, gaming machine related advertising. The prohibition will extend to promotions

that are conveyed by any medium, including radio, television and the Internet, and any printed materials such as newspapers, club journals, brochures and posted material. In addition to the ban on advertising, all signage and other material suggesting the availability of gaming machine facilities that is attached to the outside of clubs, hotels and the casino, that may be seen from outside the clubs or hotels, or that is in the immediate vicinity of clubs and hotels will be banned: for example, flashing lights and dollar signs. I have been grappling with that problem for some time. The AHA has done everything to try to minimise it but, frankly, its efforts have been in vain. People have not defied but they have gone their own merry way. Garish neon signs and other paraphernalia on buildings, especially historic buildings, are unacceptable.

People do not have to be Einstein to work out that when they enter a licensed premises for a beer they are likely to find other facilities inside those premises. I am concerned about this matter. The Premier has raised this matter with me on numerous occasions. I do not think that neon signs and other paraphernalia are great advertisements for the liquor industry. Licensed premises in New South Wales should not look like buildings in Las Vegas. I am not suggesting that the problem has reached that stage, but I give the industry a clear warning that the legislation provides for the prohibition of such signage. This is a major reform. As I said, much of the signage is an eyesore and does not reflect well on the industry. People who want to play poker machines know where to find them, as people know where to find a drink or some food. Prizes paid as part of player loyalty schemes or other gaming machine promotions will be limited to a maximum value of \$1,000 and must be in the form of goods or services. Cash prizes will be prohibited.

Any venue that runs a player loyalty scheme will be required to provide player activity statements to individual players on a periodic basis. I do not think that will be onerous. It is similar to any other customer loyalty scheme. People who have frequent flyer cards and other loyalty scheme cards receive reports on their current position from time to time. One example is a bank statement. Providing individual players with a player activity statement will not be as onerous as some people have tried to make out. I have directed the Department of Gaming and Racing to undertake a review of the general operation of player loyalty schemes. That review will commence in the new year, and will involve consultation with the major stakeholders, including ClubsNSW and the AHA. Given what I have just said, that review will be timely. In particular, the review will examine the option of requiring any player loyalty scheme to be extended to cover all transactions throughout the venue, and also whether it is appropriate to require that higher points be awarded for purchases of non-gaming goods and services than for gaming.

I turn now to the details of the bill. Clubs, hotels and casinos will be required to establish formal links with a counselling service and self-exclusion schemes. In some cases that is already happening. Some licensees have, to their credit, established links with a counselling service and established self-exclusion schemes without having to be coaxed to do so. Nevertheless, as with everything we do in life, those licensees who have failed to establish formal links with a counselling service and establish a self-exclusion scheme will be required to do so under this legislation. I need no further example than the terrible consequences of an incident at North Nowra Tavern. I shall briefly run through some of the additional controls over club and hotel gaming machine operations. It is proposed to add an additional sanction to the range of options available to the Licensing Court under complaint proceedings.

Presently, the court can cancel or suspend a club or hotel liquor licence for complaint action taken in relation to gaming machine breaches, or impose a monetary penalty. Given the level of community concern about problem gambling, it is appropriate to allow the court to impose sanctions that specifically target irresponsible conduct in relation to gaming machine operations. It is proposed to extend the range of sanctions available by providing the court with the power to suspend or cancel the entitlement of a club or hotel to operate gaming machines. Suspension or cancellation of that entitlement is the ultimate sanction, but it will be rarely used. What happened at North Nowra Tavern was despicable; a person took his life, leaving a widow and two children. The ultimate sanction must be provided in legislation to deal with a certain element in the industry, although, as I said, it will probably be rarely used.

Honourable members must remember that a licence to operate gaming machines is a privilege, not a right. However, some people in the industry think that they cannot have their gaming machine licence suspended or cancelled. This legislation clearly indicates to the industry that the Parliament is serious: If a licensee does the wrong thing he will have that privilege, not right, taken from him. The Productivity Commission, in its report on Australia's gambling industry, recognised that decisions that could have significant community-wide impacts should lie with the responsible Minister. The commission gave the following matters as examples of the types of matters that should remain within the policy direction of the Minister: increased liberalisation of gambling, the forms of gambling that are acceptable, and harm minimisation and consumer

protection policies. Some decisions currently being made by the Liquor Administration Board can impact on or conflict with government policy. For example, the board currently has responsibility for setting the technical standards that control gaming machine design and functionality.

As there are clear harm minimisation and consumer protection policies to be considered in the design of gaming machines, it is appropriate that the broad policy direction of these technical standards reside within the control of the relevant Minister of the day. The bill inserts a new provision to allow the Minister to issue directions and guidelines to the board as to how the board is to exercise the following functions: approving hardship applications, approving social impact assessments, approving technical standards and approving particular models of gaming machines. Registered clubs, as community-based organisations, have a responsibility to ensure that their financial affairs are conducted in the best interests of their members, and that no individual profits from the operations of the clubs, other than by way of reasonable recompense for their employment or service as a director, or for expenses that are reasonably incurred.

Section 10 of the Registered Clubs Act imposes various controls over payments and benefits that can be given to members, staff and directors. One of those controls prohibits the payment to employees of an amount calculated by way of reference to the quantity of liquor sold. The bill inserts a similar prohibition in relation to gaming machine operations. It also amends section 10 to require clubs to disclose in their annual reports to members the value of the salary package and other benefits of the five highest paid employees who are earning more than \$100,000. Clubs will also be required to report on overseas visits undertaken by directors and employees, with the main purposes highlighted and details of the cost of the trip.

Details will also have to be provided of other persons travelling in the same party as the director or employee, whose costs are met by the club. In addition, it is proposed to require clubs to publish their gross gaming profits from gaming machines—that is, turnover minus prizes paid out—and the amount allocated to the Community Development and Support Expenditure scheme, which does not currently exist. There will also be a requirement that club directors, secretaries and the five highest paid executives are to declare any financial interest they may have in a licensed premises, such as a hotel or a restaurant.

The reasoning behind this is that there has already been one case in the Illawarra which has been subject to court action. That case highlighted that the enforcement package put through the Parliament in the early days of my tenancy of this portfolio did not require persons with a financial interest in a licensed premises to be identified. I do not see this as being any different. It is in line with what should have been, in retrospect, part of the enforcement package that went through as a consequence of matters that came to light during the police royal commission. Such interests are to be declared at the first board meeting after the commencement of the legislation, and recorded in the minutes.

Any new interests by directors, secretaries or senior executives are to be declared at the first board meeting after the interest has been required. The club is to report on all financial interests in licensed premises by its directors, secretaries and the five highest paid executives in its annual report to members. It has been reported that some clubs may be contemplating purchasing hotels as a means of gaining access to additional gaming machines. This is contrary to the longstanding policy of both sides of government to distinguish between the gaming privileges afforded to clubs and hotels, and it is not acceptable. It is proposed to prohibit a registered club or the secretary of a registered club from having a financial interest in a hotel. Any existing interests are not to be affected by the new prohibition.

This rule will apply to a club that owns a hotel. In one case, rather than register the hotel in the name of the club, it was put in the name of the chief executive officer of the club. This provision is an attempt to address that anomaly. However, this is not to be confused with what I outlined earlier about a person merely declaring that he had an interest in another licensed premises, a hotel or otherwise. The club, its chief executive officer, or any other person who holds the licence is to be stated on the certificate of registration. Because of the size and complexity of the new bill, there is a range of consequential amendments to the Liquor and Registered Clubs Acts and other Acts which are too numerous to recite.

As I said in my opening remarks, the bill is comprehensive and extensive, and is in keeping with the public interest in having very clear and detailed controls over gaming machine operations in clubs and hotels. While much of the new bill represents a direct lift of existing controls from the Liquor and Registered Clubs Act, there are also significant new measures in keeping with the Government's gaming reform package, as announced on 26 July. The bulk of the new measures can be found in parts 2 and 3, and divisions 1, 2 and 3 of part 4 of the bill. Finally, as honourable members would be aware, there is a national requirement to review

legislation that restricts competition. The guiding principle of the National Competition Policy is that legislation should not restrict competition unless it can be demonstrated that the benefits of the restrictions to the community as a whole outweigh the costs, and that the objectives of the legislation can be achieved only by restricting competition.

The Government's gaming reform package was developed with those principles in mind. In view of the harm caused by problem gambling, the Government is confident that there are substantial public benefits associated with the Gaming Machines Bill, which is directed at harm minimisation. The Government has incorporated a basic market-based approach as part of the new package, in line with National Competition Policy principles. The transferable entitlement scheme uses the market to give clubs and hotels more flexibility. The bill also simplifies and streamlines the regulatory structure concerning gaming machines, benefiting all involved as it will be a less complex system. I commend the bill to the House.

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

## **ABORIGINAL LAND RIGHTS AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 29 November.**

**Mr MARKHAM** (Wollongong—Parliamentary Secretary) [10.53 a.m.]: The first concrete step in the development of the New South Wales Aboriginal Land Rights Act came in November 1978 when the Wran Labor Government established the Legislative Assembly Select Committee upon Aborigines—although, of course, there was much work and lobbying on the part of committed Aboriginal and non-Aboriginal people that eventually led to a time when Aboriginal rights could be seriously pursued through Parliament. The select committee, chaired by Maurice Keane, comprising members of Parliament from the main political parties was established to inquire into and make recommendations about the causes of the socioeconomic disadvantages of Aboriginal people, particularly in the areas of housing, health, education, employment, welfare and cultural issues, as well as effectiveness of current arrangements in Aboriginal affairs and land rights for Aboriginal people in New South Wales.

The select committee produced the Keane report, which represented a major departure from previous assimilationist government policies and a recognition of Aboriginal people and culture as part of Australian society. The committee emphasised that the granting of land rights was of paramount importance to Aboriginal people in New South Wales and should be regarded as an act of elementary justice for past actions designed to destroy Aboriginal societies and be accompanied by recompense for removal from their lands. The Aboriginal Land Rights Act 1983 was enacted in response to those recommendations and, as stated in the preamble to the Act, recognises the traditional ownership of land in New South Wales, the spiritual, social and economic importance of land for Aboriginal people, and the fact that Aboriginal land has been reduced without adequate compensation. The Act created a significant land and financial asset base and the potential for economic self-sufficiency for Aboriginal people in New South Wales. In 1998 the former Chairperson of the New South Wales Aboriginal Land Council, Ossie Cruse, said:

The Aboriginal Land Council Network has become a substantial organisation in New South Wales. It has acquired wealth and established power on behalf of Aboriginal people at local, regional, State, national and international levels. If I look back on 15 years of the Aboriginal Land Rights Act, I see struggle, excitement and the accumulation of substantial assets on behalf of Aboriginal people ... When I look forward I see legislation which will form the foundation of Aboriginal social and economic self-sufficiency in New South Wales ... Its achievements have been great and its potential into the future limitless.

Ossie Cruse was the Chairperson of the New South Wales Aboriginal Land Council for a number of years. He is a highly regarded and well respected Aboriginal elder from the Eden area. Ossie making that comment tells me that the Land Rights Act is very important legislation for not only Aboriginal people but for the Australian community as a whole. Aboriginal land councils have come to be the focal points for Aboriginal communities throughout this State, not only for their role in claiming and managing land for the benefit of their members, but also for a range of other functions. Aboriginal land councils provide a range of employment opportunities for Aboriginal people, often working in conjunction with community development and employment programs.

A broad range of housing services is often provided and many land councils are now engaging in a wide range of business enterprises. Aboriginal land councils also play an important part in the return of national parks to Aboriginal ownership, the first of which—Mutawintji National Park at Broken Hill—was handed back

to its traditional owners by Premier Carr in 1998. That is only one of a number of national parks that the Government is considering handing back to the local Aboriginal people. Over the past 18 years the work opportunities provided by land councils to young Aboriginal people have been quite extraordinary. In the early years following the enactment of the Land Rights Act, there were about 113 land councils. Now there are 118, there are 13 regional councils and the State land council. Through that system of councils a number of young Aboriginal women learnt basic accounting and office work; it was an invaluable teaching experience. They obtained work experience in that system and went on to find employment in the broader community. People who are critical of land councils should realise that that system is a proactive example of a statewide organisation that has provided work opportunities for thousands of young Aboriginal people. The New South Wales Aboriginal Land Council has also always undertaken an important advocacy role for Aboriginal people. It has participated in international forums, including the United Nations Working Group on Indigenous Populations.

We have experienced the inevitable difficulties of introducing a system of self-government within the Aboriginal community. However, we must not lose sight of the continuing importance and relevance of the Act, in terms of both the symbolic acknowledgment of Aboriginal people and the practical and tangible benefits that the Act provides. The amendment bill is aimed at addressing these difficulties and developing the untapped potential of the land rights system. The Aboriginal Land Rights Act has been amended a number of times. The amendment in May last year allowed Aboriginal land councils to apply for exemptions from rates on vacant and unimproved land. This amendment has brought about significant benefit to land councils, with more than \$500,000 in rate exemptions being processed by the Department of Aboriginal Affairs to date. Way back in 1983 when the land rights Act was introduced its object was to allow Aboriginal people to claim unoccupied Crown land, to get back part of their heritage. Local councils, considering the claimed land to be in private ownership, levied rates on that previously unrated land. When the Carr Government was elected in 1995 and Andrew Refshauge became Minister for Aboriginal Affairs the situation was addressed so that the claimed land was no longer a liability but an asset to Aboriginal people.

On 1 May 2000 the Minister released the "Discussion Paper on the Review of the Aboriginal Land Rights Act 1983". The document was distributed to all Aboriginal land councils and to all agencies with a potential interest in the amendments. It was made available on the Department of Aboriginal Affairs web site and to all individuals and organisations that requested copies. In June and July 2000 the Department of Aboriginal Affairs conducted workshops in Wagga Wagga, Gosford, Tamworth, Batemans Bay, Broken Hill, Coffs Harbour and Coonamble to canvass the issues raised in the discussion paper. I attended two of those very important workshops, at Batemans Bay on 27 and 28 June last year and at Broken Hill on 11 and 12 July. Debate on the issues at the meetings I attended was robust to say the least, as I am sure it was at all the other meetings. It was good to see rank-and-file people from Aboriginal communities throughout New South Wales debating, discussing, criticising and applauding different aspects of the legislation.

This bill has been drafted in accordance with the concerns raised in the workshops and following extensive consultation and negotiation with the New South Wales Aboriginal Land Council and a number of government agencies. As a result of this process, the bill manages to address most of the recommendations of the ICAC's "Report on Investigation into Aboriginal Land Councils: Corruption Prevention Research" and various submissions from the Audit Office, the Treasury, the Attorney General and the New South Wales Ombudsman. The New South Wales Aboriginal Land Council has also been consulted extensively on the bill and has passed a resolution in support of it. The fact that the bill meets the views and has the agreement of such divergent agencies and organisations is an achievement and marks a new co-operative approach between government and land councils to address the problems currently faced by the Aboriginal land council system.

The primary purpose of the review was to address the recommendations of the Independent Commission Against Corruption report in response to community complaints regarding maladministration, the misuse of funds, nepotism, conflicts of interest and election irregularities in the Aboriginal land council system. Over many years, Mr Acting-Speaker, you have been a member of the Caucus Aboriginal affairs committee. As we travelled throughout New South Wales we heard disturbing complaints, many concerning maladministration and nepotism. It was important that those complaints raised by rank-and-file members of the Aboriginal community be looked at objectively and that solutions be found to enable the Aboriginal land rights system to work more effectively to the advantage of the community.

Internal accountability is fundamental to the successful functioning of the Aboriginal land council system because the land councils were established as the representative bodies of the Aboriginal people of New South Wales to deal with their land rights. The bill represents a measured and appropriate response to the problems currently faced by the New South Wales Aboriginal land council system. The bill emphasises the importance of responsible community representation and accountability and provides members with mechanisms to call their representatives to account. As the Act is based on the principles of Aboriginal

empowerment and self-determination, it is the Aboriginal land council members who have the ultimate control over, and responsibility for, a functioning land council system by making their representatives accountable to them.

The bill also emphasises that the land councils represent the interests of all Aboriginal people and hold assets on behalf of all Aboriginal people, and not merely the land council members. This amendment bill is therefore essential to refine the Aboriginal land council system by encouraging community participation and empowering individuals to exercise their rights as members of the New South Wales Aboriginal community, to make their representatives accountable, and to manage resources for their common benefit. The bill will develop the policies and principles of the Act for providing recognition and self-government for Aboriginal people. It will make these goals real and meaningful by improving the workings of Aboriginal self-government and by encouraging Aboriginal people to participate within their own organisational structures. These are real issues. They are being addressed, and they will continue to be addressed. The legislation will be amended as issues are raised.

The bill is a contemporary piece of legislation dealing with the lives of human beings—a section of our society that in many instances has been denied a voice within society generally. Legislation such as this goes only a small way to addressing and reversing the destruction that our system has caused to Aboriginal culture in the last 200 years. While ever I am a member of Parliament I will continue to raise the issue of disadvantage and work with the Minister for Aboriginal Affairs and the Director-General of the Department of Aboriginal Affairs, Linda Burney, who is in Parliament House this morning, to ensure that our Government provides the best services possible to the Aboriginal community in this State. We will continue to work hard and this Government will continue to deliver for Aboriginal people. I commend the bill, and I congratulate the Minister and everyone involved in bringing the bill to the Parliament today. *[Time expired.]*

**Dr REFSHAUGE** (Marrickville—Deputy Premier, Minister for Planning, Minister for Aboriginal Affairs, and Minister for Housing) [11.08 a.m.], in reply: I thank honourable members for their contributions. In particular, I appreciate the support from the Opposition and the great contribution from my colleague the Parliamentary Secretary for Aboriginal Affairs. This amendment bill will refine and improve the Aboriginal land rights legislation by making the Act accessible to Aboriginal people in New South Wales, by increasing the accountability of Aboriginal land council officers to their members, and by improving governance procedures generally.

The bill has the following specific provisions to improve the status of Aboriginal land councils as legitimate representative bodies for the Aboriginal community. It introduces far-reaching structural changes to the Act to make it logical and accessible for laypersons. This is essential to encourage land council members to familiarise themselves with and enforce their rights. The bill will reduce confusion among both land council members and officers about the respective roles and functions of the local Aboriginal land councils, the regional Aboriginal land councils and the New South Wales Aboriginal Land Council by specifying their roles and functions.

The bill includes provisions to address specific corrupt practices. For example, it provides that members can exercise their voting rights in one local Aboriginal land council only and there are specific mechanisms to ensure that they do so. The bill increases accountability for all Aboriginal land council officers by specifying the circumstances leading to their removal from office, by lowering the bar to enable members to remove officers, and by specifying the procedures for disclosure of pecuniary interests and discipline for non-disclosure of pecuniary interests. In cases where Aboriginal land council officers have failed to comply with the Act, the Registrar of Aboriginal Land Claims has the power to direct officers to comply with the Act, failing which he may refer the non-compliance to the Land and Environment Court.

The bill encourages the participation of Aboriginal persons and land council members within the land council system by emphasising that Aboriginal land council officers are accountable to members, and act on their behalf by increasing opportunities to remove and discipline corrupt or incompetent officers and by emphasising that land councils represent all Aboriginal people and not only land council members. The bill encourages improved staffing procedures by requiring staff to be employed on the basis of their relevant work experience, and merit in the management of staff is to be improved through the appointment of a chief executive officer of the New South Wales Aboriginal Land Council, who will be responsible for the appointment and dismissal of staff.

The bill improves the management of resources by requiring the New South Wales Aboriginal Land Council to monitor the funding of local Aboriginal land councils. In accordance with the principal of internal

accountability, the bill requires disclosure of all decision-making processes and expenditures. The New South Wales Aboriginal Land Council annual report will need to disclose the remuneration and financial benefits received by each individual councillor and the amount of funding provided to each individual local Aboriginal land council. Provision will be made in the regulation to oblige the different Aboriginal land council tiers to make their meeting minutes available to other land council tiers, subject to certain prescribed exceptions. All members have access to their local Aboriginal land council records and there are various mechanisms to enforce this right.

The bill recognises that the discrimination and disadvantage experienced by Aboriginal communities is frequently reflected in serious intracommunity disputes. The bill also recognises that the land rights system requires an effective, accessible and affordable dispute resolution system. Provision is made for the New South Wales Aboriginal Land Council to have a specific function of conciliating, mediating or arbitrating disputes arising under the Act. In cases where it is inappropriate or where the parties do not agree to have a dispute resolved by the New South Wales Aboriginal Land Council, the dispute may be referred to the Registrar of Aboriginal Land Claims for conciliation, mediation or arbitration or to an independent arbitrator. The costs of alternative resolution in each case are borne by the New South Wales Aboriginal Land Council or the registrar. This will make the dispute resolution more accessible and attractive to the disputants. Where alternative dispute resolution fails and where the Registrar of Aboriginal Land Claims deems it appropriate, he can refer disputes to the Land and Environment Court for resolution.

A workable Aboriginal land council system requires skilled people to ensure that proper procedures are followed and to make the maximum use of the Aboriginal land council assets. The New South Wales Aboriginal Land Council will have an additional function of providing or making available appropriate training for staff, officers and Aboriginal land council members. Obviously the Government is aware of the wider socioeconomic problems within Aboriginal communities. However, neither land rights nor one lone Act of Parliament can serve as a panacea for profound social problems whose roots lie within Australian history and whose solution eludes all other societies that experience these problems.

The legislation does not deny the nature of these problems or their seriousness. The objects of the New South Wales Aboriginal Land Council are the improvement, protection and fostering of the best interests of Aboriginal people within New South Wales, and relief of the poverty, sickness, suffering, distress, misfortune, destitution, and helplessness of Aboriginal persons within New South Wales. As I mentioned previously, these are not simple problems that can be remedied by a simple solution enacted in legislation. Without trying to prescribe any simplistic or fatuous solutions, the bill requires the Aboriginal land councils to address these socioeconomic problems as their sole object.

The Act previously included a provision enabling the New South Wales Aboriginal Land Council to make grants or lend money to, or invest money for or on behalf of, Aborigines, and "Aborigines" is defined as individuals. This is not a new provision and has not been identified in either the ICAC report or the report of the Audit Office as having been subject to abuse. However, the new legislation will require any decision in terms of this function to be made by the council itself, that is, this function cannot be delegated, and the exercise of this function will be reflected in the meeting minutes, which will need to be made available to other Aboriginal land councils. Therefore, information regarding grants or loans to Aboriginal individuals must be made available to local Aboriginal land council members.

I would finally like to point out that there has been extensive consultation in the development of this legislation, and consultation and agreement has been the overriding principle in reaching this set of proposals. The original discussion paper on the review of the Act was distributed to all Aboriginal land councils and to all relevant agencies. The document was made available on the Department of Aboriginal Affairs web site and to all individuals and organisations that requested copies. The department conducted workshops in each of the Aboriginal land council regions and sought submissions from all interested parties. In accordance with the Government's policy of making the legislation relevant to Aboriginal land council members and people, the drafting of the legislation took the submissions into account as far as possible. The New South Wales Aboriginal Land Council has also been consulted extensively on the bill and has passed a resolution in support of the bill.

I regard the bill as marking the start of a new period in Aboriginal affairs, a period of co-operation not only between government and Aboriginal organisations and representatives but within the Aboriginal community and between different interest groups. Finally, these issues are not of marginal interest. They affect us all. The Aboriginal community, particularly in small rural towns, is part of the wider society, and the failure to address problems within the Aboriginal community will impact on the wider community. Again, I thank

honourable members who contributed to this debate and I note that further afield there is general support for the advancement of Aboriginal people in this Chamber. I commend the bill.

**Motion agreed to.**

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

### **RESIDENTIAL TENANCIES AMENDMENT BILL**

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

#### **Second Reading**

**Dr REFSHAUGE** (Marrickville—Deputy Premier, Minister for Planning, Minister for Aboriginal Affairs, and Minister for Housing) [11.20 a.m.]: I move:

That this bill be now read a second time.

The object of this bill is to amend the Residential Tenancies Act 1987 to provide that the New South Wales Land and Housing Corporation is not required to give notice under section 45 (1) of the Act to tenants who receive a rebate of rent—that is, those who do not pay market rent—and to provide that any rent increase made before 1 January 1999 in respect of property leased by the New South Wales Land and Housing Corporation is not invalid merely because notice was not given in accordance with section 45 (1) of the Act in relation to the increase. The need to retrospectively validate past notices of rent increases issued by the Department of Housing prior to 1 January 1999, has arisen from a decision of the Supreme Court. In the Stannard case the court held that the rent card system used by the Department of Housing until 31 March 1994 did not satisfy the requirements of section 45 (1) of the Residential Tenancies Act 1987, which states :

#### **Increase of rent**

- 45. (1)** the rent payable by a tenant under a residential tenancy agreement shall not be increased except by notice in writing given to the tenant specifying the amount of the increased rent and the day from which the increased rent is payable.

When a valid notice of increase in rent is served, a tenant is bound to pay the increased rent unless a tenant chooses to challenge it under section 46 of the Residential Tenancies Act. It is important to note that the tenant in the Stannard case was paying a rebated rent, not market rent. Over a lengthy period of time the rebated rent increased to such an extent that it became greater than the rent stated on the original tenancy agreement. The tenant was advised in February 1991 that the market rent was \$170 a week, but the tenant continued to pay a rebated rent. The market rent of \$170 a week even appeared on the tenant's rent card.

However, both the Residential Tribunal and the Supreme Court have found that the Department of Housing failed to comply with section 45 (1) of the Residential Tenancies Act, in that it failed to properly notify the tenant of market rent increases. As a result of that decision, the department had to pay the tenant almost \$5,000—that is, the difference between the original market rent of \$77 a week, as stated on her tenancy agreement, and the rebated rent she had been paying. The Stannard decision is manifestly unfair to any social housing landlord. In his judgement, Justice Davies said:

The end result of this case does not accord with my innate feeling of justice. It would seem that the tenant has been aware, since February 1991, that her rent was \$170.00 less the rebate and has remained in possession and paid rent on that basis during the ensuing years. It seems unfair to the landlord that, when in 1999 it sought to recover arrears going back to December 1998, it should be met by defence that a Notice of Increase was not given in accordance with Section 45 of the Residential Tenancies Act. However, I have dealt with the issues in the case and am of the view that, as a matter of law, the landlord's appeal must be dismissed.

The proposed amendment will close this loophole. Tenants paying a rebated rent will not be able to profit from and take advantage of a legal technicality. Thus the Department of Housing's limited resources can be applied to providing assistance to those in need. It is necessary to validate all notices of rent increase issued by the Department of Housing prior to 1 January 1999 as the department's practices with regard to notifying market rent increases have varied over the last 10 years. On 25 July 1994 the Department of Housing issued notices of market rent increases only to tenants paying market rent. Tenants on a rebated rent received no notice at all. The letters issued to those on market rent were generated by computer and no electronic copies were kept.

By this amendment to the Act, the notices of market rent increases issued by the Department of Housing on 25 July 1994 will not be deemed invalid. On 21 May 1998 the Department of Housing again issued

notices of market rent increases. Unlike the notices issued in 1994, these notices were issued to all tenants and electronic copies are available. However, like the notices issued in July 1994, the 1998 notices did not stipulate the amount of the rent increase, only the total rent payable after the increase. In other words, the notice may have indicated that the rent payable was \$180 a week, rather than stating that the rent had increased by \$10 a week from \$170 to \$180 a week.

Some members of the Residential Tribunal have indicated that the notices sent out in 1994 and 1998 may not comply with section 45 (1) of the Residential Tenancies Act because they do not stipulate the amount of the rent increase. The proposed amendment to the Act will ensure that any potential defects in the 1994 and 1998 notices will not result in another case similar to Stannard. Historically for logistical reasons, the Department of Housing did not notify tenants on a rebated rent of increases in market rent. By the amendment to section 132 of the Residential Tenancies Act the Department of Housing will no longer be required to notify tenants who pay a rebated rent of market rent increases.

Currently less than 10 per cent of the department's 130,000 tenants pay market rent. However, section 45 (1) requires the department to issue all tenants with notifications of market rent increases. In other words, every year the department is mailing out to tenants more than 110,000 letters that are not relevant. This is an unnecessary imposition on the Department of Housing, and I would prefer to have that money and effort directed at providing assistance to our tenants. Every time the department issues notifications of market rent increases, it causes confusion among many of our tenants on a rebate. Even though the market rent on their home might have increased, the amount of rent they pay does not change.

To help overcome this confusion, the department sets up a rent assistance hotline and takes calls from thousands of tenants. By exempting the Department of Housing from notifying tenants on a rebated rent of market rent increases, this unnecessary confusion will be avoided and department resources can be put to better use. Department of Housing tenants paying market rent will not be affected by this amendment. They will continue to receive notifications of market rent increases by the Department of Housing and have full recourse to the Residential Tribunal to appeal any increase they believe to be excessive.

In the course of consulting with tenant representatives about the proposed amendments it has been argued that some tenants coming off a rebated rent will be unfairly disadvantaged. Tenant representatives have argued that tenants coming off a rebated rent and onto a market rent will have no knowledge of an increase in their market rent and therefore no ability to appeal that increase. Rather than unnecessarily delaying the proposed amendments, I would like to foreshadow a future amendment to section 46 of the Residential Tenancies Act to ensure that tenants in this situation are not disadvantaged. The Department of Housing will continue to consult with tenant groups to finalise the precise details of the amendment to ensure that no tenant is disadvantaged by these amendments. I will bring that amendment to the House once it is finalised. I commend the bill to the House.

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

## **ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (SKI RESORT AREAS) BILL**

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

### **Second Reading**

**Dr REFSHAUGE** (Marrickville—Deputy Premier, Minister for Planning, Minister for Aboriginal Affairs, and Minister for Housing) [11.27 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce this bill as it provides the legislative framework to manage the planning of ski resorts within Kosciuszko National Park. Members of the House will remember that in February this year the Government announced an overhaul of planning for ski resort areas within Kosciuszko National Park. At that time my colleague the Minister for the Environment, Bob Debus, released the independent review by Bret Walker, SC, that was commissioned by the New South Wales Government, following recommendations in the Coroner's report into the 1997 Thredbo landslide.

The Walker report made a number of recommendations, all of which were accepted by the Government. In particular, the Government adopted the following recommendations: to continue the

management of the ski resorts by the National Parks and Wildlife Service; planning for the ski resorts should be governed by Part 3 (Plan Making) and Part 4 (Development Assessment) of the Environmental Planning and Assessment Act 1979; to approve the development by Planning New South Wales, in conjunction with the National Parks and Wildlife Service, of a regional environmental plan to apply to the ski resorts areas; as an interim measure, to approve the preparation by Planning New South Wales, in conjunction with the National Parks and Wildlife Service, of a State environmental planning policy to apply to the ski resort areas.

This bill ensures that the planning framework is in place to commence the implementation of government decisions. Under this new planning regime the two key instruments will be the Kosciuszko Ski Resorts Regional Environmental Plan and a revised Kosciuszko National Park plan of management. Planning New South Wales and the National Parks and Wildlife Service will develop these instruments in close cooperation with each other and the community. The plans will take about two years to complete because of the need to fully investigate the many sensitive issues involved as well as consult properly with all interested parties. As I mentioned previously, the Government earlier this year approved the preparation by the Department of Planning, in conjunction with the National Parks and Wildlife Service, of an interim State environmental planning policy to apply to the ski resort areas within the Kosciuszko National Park. The State environmental planning policy will be repealed when the proposed regional environmental plan is gazetted.

The package of reforms contained in the bill, its accompanying regulations and the State environmental planning policy will mean the professional planning staff within the Department of Planning will be responsible for making recommendations to me concerning development proposed within the ski resorts. The reforms will free up the National Parks and Wildlife Service to do what it does spectacularly well—managing and conserving the significant natural and cultural environments of one of Australia's most significant national parks. Introduction of these measures will mean planning and development decisions relating to ski resorts within the Kosciuszko National Park will be governed by the provisions of part 4 of the Environmental Planning and Assessment Act and accompanying regulations, in the same way they are elsewhere in New South Wales. In paragraph 94 of his report Mr Bret Walker said:

The State and regional significance of these places [that is, the ski resorts], the general expectation of people throughout New South Wales of a planning regime, the off-the-shelf resource represented by the *Environmental Planning and Assessment Act* and the Land and Environment Court, and the need to prevent deleterious conflicts between conservation and development values and interests, all point to the need for change.

I turn now to the bill. The bill has two objectives. Firstly, it amends the Environmental Planning and Assessment Act 1979 so the ski resort areas in the Kosciuszko National Park can be subject to the requirements of part 4 of the Act. Secondly, it amends section 163B of the National Parks and Wildlife Act 1974 to enable me, as the consent authority, to issue orders under part 6 of the Environmental Planning and Assessment Act 1979 and to carry out regulatory functions contained in Chapter 7 of the Local Government Act 1993.

Schedule 1 to the bill amends the Environmental Planning and Assessment Act. A little background information on the current planning situation in Kosciuszko National Park is necessary to understand this part of the bill. At present activities within the ski resort areas do not require development consent under part 4 of the Environmental Planning and Assessment Act 1979. The environmental impact of activities is assessed under part 5 of that Act. The Government took the decision, on the basis of the Walker report recommendation, that activities in the ski resort areas will require development consent, in much the same way as other areas of the State. New clause 32B identifies the types of regulations that need to be made to change the development approval system in the ski resort areas from part 5 to part 4.

The regulations will enable the conversion of existing part 5 approvals in the ski resort areas to development consents under part 4. This will enable any future proposals that relate to a development previously approved under part 5 to be assessed under part 4. The regulations will also include the conversion of other approvals such as building approvals and occupancy certificates to become relevant part 4A certificates under the Environmental Planning and Assessment Act 1979. The regulations will also modify the operation of the Environmental Planning and Assessment Act 1979 in limited ways to specify who is to carry out functions under the Act in relation to the ski resort areas and the way in which those functions are to be carried out.

In particular, this will enable provisions to be made to recognise the role in those areas of lessees as the appropriate persons upon whom orders are issued under division 2A of part 6 of the Environmental Planning and Assessment Act 1979 rather than the National Parks and Wildlife Service as landowner. The bill also authorises the Director-General of the Department of Planning to certify that any existing part 5 approval, certificate, permission or other authority can be treated as a valid development consent or part 4A certificate. Schedule 2 to the bill amends section 163B of the National Parks and Wildlife Act 1974.

Section 163B of that Act precludes the carrying out of certain regulatory functions by the local council under chapter 7 of the Local Government Act 1993 and the issuing of orders under division 2A of part 6 of the Environmental Planning and Assessment Act 1979 in relation to development within national parks. Division 2A part 6 orders provide either for a council or a consent authority to issue various orders against owners, such as orders to demolish or remove buildings, or to repair or make structural alterations. The non application of these parts of the Environmental Planning and Assessment Act 1979 to land in a national park was appropriate because development proposals were assessed and approved in accordance with the National Parks and Wildlife Act 1974 and part 5 of the Environmental Planning and Assessment Act 1979.

The amendment to section 163B of the National Parks and Wildlife Act 1974 will apply only to the ski resort areas and will allow only the consent authority, being me as Minister, to exercise those powers and functions. As I indicated earlier, this bill will be accompanied by a State environmental planning policy [SEPP] to apply to the ski resorts within the Kosciuszko National Park. The SEPP is intended to be an interim measure only. It will be replaced by a more comprehensive regional environmental plan made after the carrying out of an environmental study and appropriate consultation with key stakeholders and the wider community under the Environmental Planning and Assessment Act 1979.

The SEPP brings the planning and development of ski resorts in the Kosciuszko National Park under part 4 of the Environmental Planning and Assessment Act 1979. It also ensures the only development permissible is development authorised by the National Parks and Wildlife Act 1974, as is the case now. However, development being carried out by or on behalf of Snowy Hydro will continue to be assessed under part 5 of the Environmental Planning and Assessment Act 1979. Development proposed to be carried out by or on behalf of a public authority will also continue to be assessed under part 5 of this Act, other than development for water storage dams, sewage treatment works and waste management facilities. Officers of my department, in conjunction with officers from the National Parks and Wildlife Service, have developed the SEPP.

In conclusion, the Government has put forward this bill in response to the recommendations coming from the report by Bret Walker, SC, commissioned by the Government following recommendations contained in the Coroner's report into the 1997 Thredbo landslide. This bill sets the legislative framework to allow the transfer of the consent authority role from the National Parks and Wildlife Service to me as the Minister for Planning. It will mean a clearer delineation of roles for both agencies and it will ensure that the right people are responsible for the right areas. The bill will ensure that there will be a seamless transfer of responsibility from the National Parks and Wildlife Service to the Department of Planning so that planning and development decisions relating to the ski industry are made in the same way they are made elsewhere in New South Wales.

Whilst the Government recognises the State and regional importance of the ski resort industry to the State's economy, we also very firmly acknowledge the highly sensitive and fragile alpine environment within which the resorts are located. The Department of Planning will work closely with the National Parks and Wildlife Service to uphold the Government's longstanding commitment to protection of the natural environment and to ensure development is carried out in an ecologically sustainable manner. I commend the bill to the House.

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

## **WORKERS COMPENSATION LEGISLATION FURTHER AMENDMENT BILL**

### **In Committee**

#### **Consideration of the Legislative Council's amendments.**

##### *Schedule of amendments referred to in message of 30 November*

- No. 1 Page 34, Schedule 4 [14], proposed clause 11, lines 26 and 31. Omit "1 February" wherever occurring. Insert instead "31 March".
- No. 2 Page 57, Schedule 10.2. Insert after line 20:

#### **[4] Section 248A Review of Act**

Insert "and the Workers Compensation Legislation Further Amendment Act 2001" after "Workers Compensation Legislation Amendment Act 2001" in section 248A (1).

[5]      **Section 248A (2)**

Omit the subsection. Insert instead:

- (2)      The review is to be undertaken as soon as possible after the period of 12 months from the date of assent to the *Workers Compensation Legislation Further Amendment Act 2001*, and is to be completed by 27 April 2003.

[6]      **Section 248A (3) (a)**

Insert "before 27 April 2003" after "House of Parliament".

[7]      **Section 248A (4)**

Insert "and before 27 April 2003" after "copy of the review".

**Mr WHELAN** (Strathfield) [11.40 a.m.]: I move:

That the Legislative Council's amendments be agreed to.

**Mr HARTCHER** (Gosford) [11.40 a.m.]: The Legislative Council amendments relate to the reporting date in proposed section 248 of the Act. This section was inserted when the last tranche of reforms passed through Parliament in June this year. They set up a simple accountability system that ensures that a report on the efficacy and implementation of the reforms passed by the Parliament will be delivered to Parliament after a specified period. One would not think there is anything controversial about that. However, we discovered yesterday that that section, which was agreed to by the Legislative Council and accepted in this place, has not been proclaimed and that the Government has no intention of doing so. This amendment seeks to ensure that the third tranche of reforms will be accountable to Parliament and that the people and Parliament will be informed about these changes to workers compensation.

This Government tries consistently to prevent the application of freedom of information provisions. It seeks to ignore a vast schedule of unproclaimed legislation—largely amendments that were passed by the Legislative Council. A Minister of this Government, the Minister for Community Services, only one hour ago refused to give an undertaking to the House that Legislative Council amendments to the Children and Young Persons (Care and Protection) Amendment (Permanency Planning) (No 2) Bill would be proclaimed. This Government, through the Hon. John Della Bosca, has accepted amendments to workers compensation legislation in the past and then simply refused to proclaim them. Such behaviour is a sign of the Government's contempt for Parliament and reveals the tunnel vision of this Government, which believes that it, and only it, possesses the wisdom necessary to govern New South Wales.

The tragedy is that this Government is bereft of wisdom, which is why it must repeatedly fix its legislation. It is led by people who are contemptuous not only of the parliamentary process but of the valuable ideas offered by the Opposition to improve legislation for the benefit of the people of this State. Amendments are passed by the Legislative Council and accepted in this place but then not proclaimed by the Government, which advises the Governor-in-Council. We ask the Government to guarantee that it will proclaim this series of amendments. I note that the Parliamentary Secretary Assisting the Minister for Education and Training, the honourable member for Bankstown, is at the table. Will he explain the Government's intention with regard to these amendments?

The Government has moved a motion to accept the amendments. Will the Parliamentary Secretary assure the Committee that the will of Parliament will be upheld and that those amendments will be proclaimed? It is a simple question. This will not undermine the integrity of the Government, or even the integrity of its so-called reforms, because the amendments refer to a simple reporting mechanism. The first amendment omits references to "1 February" and inserts instead "31 March"—which is after the next State election. The amendment originally required that a report be made to Parliament and the public before the election so that they could assess the effectiveness of the Government.

The amendment originally sought to ensure that, before they cast their votes on the last Saturday in March, the people would have before them a report on the Government's performance in the area of workers compensation. However, the people will now not have that information before them because the amendment gives a reporting date of 31 March and State elections are held on the last Saturday in March—which is usually about 27 March. That lets the Government off the hook, so there is no reason why it should run scared and refuse to proclaim this amendment. The review will consider the efficacy of the Act and its reforms and will be undertaken as soon as possible after 12 months from the date of assent and completed by 27 April 2003—that is the second review after the 2003 election.

What does the Government have to hide? What is it afraid of? Why will it not give an undertaking to proclaim these amendments and why has it not proclaimed proposed section 248? We are entitled to receive a response to these questions, which must be answered. The Parliamentary Secretary should devote his attention to these questions instead of checking out the numbers in the Lakemba branch of the Australian Labor Party. If these amendments are not proclaimed we will make as much fuss as we can in 2002 about the cowardice of this Government.

The tragedy is that workers compensation reforms, of which these amendments are part, have been pushed through Parliament again and again without the benefit of actuarial advice or any understanding of their impact on premiums. It is a tragedy that so many members of the Australian Labor Party have simply rolled over in caucus and in Parliament and allowed the Government to run the issue completely. Labor members have failed to accept their independent responsibility to guard the interests of those whom they claim to protect: the workers of this State. We expect some answers, and we ask the Parliamentary Secretary to supply them.

**Mr HAZZARD** (Wakehurst) [11.47 a.m.]: The reaction to Opposition amendment No. 1 moved in another place and then amended by an Independent member with the support of the Government raises the spectre of the Government's desire to avoid scrutiny of its actions in the area of workers compensation. Amendments that refer to a review that will occur in the lead-up to the next State election but will not be reported on until after that election are indicative of this Government's twists and turns. This is about avoiding accountability and about removing workers rights, as is evidenced by the fact that this legislation is passing through Parliament. I remain concerned about workers compensation legislation as this Government has presented it to Parliament. As the honourable member for Gosford said, many members of the Labor Party must have been threatened and cajoled into keeping their mouths shut because, at the end of the day, this bill is about taking away workers rights, with no obvious benefit to employers.

The Government has used all sorts of devices to push this legislation through. The spectre of the demonstration that occurred a few months ago outside Parliament indicated the level of concern workers have about the loss of their rights. Employers should and do have an obligation to provide a safe work environment. Provided that is done, there should be reasonable compensation for workers who are injured. To take away any of the rights of workers goes against what any government should do, let alone this Government, which purports to represent workers. The fact that no obvious benefit has been shown to flow from these amendments indicates that the Government has some other agenda, and it sounds like more of the same rhetoric-driven, political superficiality that comes from the Premier. I know that many Government members are concerned about this, as are Opposition members.

At the end of the day the Government is entitled to pursue such legislation if that is what it wants to do. It should also allow itself to be accountable for what it is doing. It is taking away workers rights. It should lay out in black and white for those workers, for employers and for the community generally precisely what the benefits are. A lot of rubbish has been spoken in the debate. There has been talk about premiums coming down dramatically. I find that very hard to believe. If they come down, one has to weigh up whether or not the massive reduction in workers benefits warrants what will probably be only a very modest reduction in premiums.

Having said that, the Coalition, and I as a Liberal member, is keen to see employers' premiums come down. That will benefit not only employers but workers, because more workers will be employed by those employers. My concern has always been, and remains, that employers have been misled by the Carr Government as to what benefits may flow to them. A number of employers believe that their premiums will be reduced, but I am not at all convinced that that will happen. The price that is being paid is the removal of workers rights to fair compensation. The port of call, the safe harbour, that has always been there in times of trouble—access to common law—is being taken away.

Workers who are hurt through the negligence of anybody—particularly employers, who have an obligation to provide a safe working environment—should have the right to make common law claims. The fact that they have to jump these hurdles, which are now whole-of-body percentages, for instance, indicates that the Premier does not have the interests of workers at heart. I doubt whether the Premier understands a lot of what he does in this place. He operates at a very superficial level and day after day makes decisions that are not really in the interests of the community. I still question whether the amendments that are passing through this place will result in any substantial reductions in premiums.

There has been some attack on lawyers, as if lawyers cause people to take court proceedings. What causes people to take court proceedings is that their rights have been abused in some way, that the duty of care

owed to them has not been exercised as carefully as it should have been. Persons injured as a result of a breach of duty of care should have the right to bring action to ensure that they are compensated to enable them, as best they can, to put themselves back in the position in which they were before. Lawyers are the agents, if you like, who facilitate people who do not know how to work their way through the legal system, who can take proceedings so that people can enforce their rights and at least receive compensation as a result of the loss of those rights. It is convenient for many people to attack lawyers, who simply reflect the individual's concern.

I do not support lawyers who talk up litigation or unnecessarily get people into court. The best advice any lawyer can give his client is to try to stay out of court. Anything one can do to stay out of court, as long as it is honest, is worthwhile. When I was a practising lawyer I always told clients that they had to put a dollar value on peace of mind and if they could possibly avoid court that is what they should do. Most lawyers would do precisely that. However, at times people need to have those rights heard by a court, a judicial officer who can give them the opportunity to go some way down the track to reinstate the things that have been taken from them.

This legislation is quite horrific in the way it attacks people's rights. I do not understand why the Premier or his colleagues are allowing this legislation to pass in this form but, in the fullness of time, there may be some substantial reduction in premiums and perhaps workers rights will not be attacked, as I think they will be. However, we need an open, public review. We need a review which should report before the next election. The good citizens of New South Wales chose to have four-year fixed terms of Parliament. There are benefits to that, but there are also negatives. This is probably one of the biggest pieces of legislation to pass through the Parliament in its current term.

It has the potential to do the most harm to people in our community: workers, our brothers and sisters, our uncles and aunts, and other relatives and friends. On that basis we should have a public review which, at the end of the day, can be reported openly to Parliament before the next State election so the community of New South Wales can determine whether this legislation has been beneficial. It is reprehensible to think that the Government is going to take one more step to hide the outcome of this major legislation by not having the review report until after the election.

There are no Ministers in the Chamber at the moment, but I call on the Parliamentary Secretary, the honourable member for Bankstown, as their representative, to give an undertaking that the amendments agreed to in the upper House will be proclaimed. Unfortunately, another hallmark of this Government is its failure to proclaim legislation it does not like. This morning the Minister for Community Services refused to give an undertaking in relation to an essential piece of legislation regarding permanency planning for children who are taken from their families when they are at risk.

I ask the Parliamentary Secretary to give an undertaking on behalf of the Premier today that all the amendments agreed to in the Legislative Council will be proclaimed; that this is not some sort of rubber-stamping this morning, the Government knowing full well that it is another conspiracy to avoid the democratic process, to avoid the will of Parliament, by not proclaiming the amendments it does not like. If the Opposition does not get an undertaking this morning, it is clear that we can expect the Government, yet again, to be deceptive and not proclaim these amendments. I look forward to receiving that undertaking.

**Motion agreed to.**

**Legislative Council's amendments agreed to.**

**Resolution reported from Committee.**

### **Adoption of Report**

**Mr STEWART** (Bankstown—Parliamentary Secretary) [11.59 a.m.]: I move:

That the report be now adopted.

**Mr HUMPHERSON** (Davidson) [12.00 p.m.]: In view of the substantial and impressive contributions by the honourable member for Wakehurst and the honourable member for Gosford, and the concerns of members of this House that all sections of this legislation may not be proclaimed by the Government, concerns that were signalled when an earlier bill for which the Minister for Community Services was responsible was dealt with, I move:

That the motion be amended by the addition of the following words:

"and (2) That the House formally resolve to call on the Government to proclaim all sections of the Act in the interests of both employers and injured workers in New South Wales."

The purpose of the amendment is to make sure that the will of this House is respected. It is designed to ensure that the Government cannot easily slide away from its absolute moral obligation to fully proclaim the bill and that it cannot ignore the demands, requests and opinions of the Legislative Council that have been adopted by all members of this House. The Government now has the opportunity to support this amendment and to stand side-by-side with the Opposition to ensure that all sections of the bill are proclaimed. The Government should not have the opportunity or discretion to selectively cherry pick sections out of the bill. If the amendment is successful the will of both Houses of the New South Wales Parliament will prevail and the bill will be assented to and proclaimed in its entirety.

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

**Division called for and, pursuant to sessional orders, deferred.**

**LOCAL GOVERNMENT AND ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT  
(TRANSFER OF FUNCTIONS) BILL**

**In Committee**

**Consideration of the Legislative Council's amendment.**

*Schedule of the amendment referred to in message of 13 November*

Page 8, Schedule 2. Insert after line 9:

**[2] Section 4 (2) (b) (v)**

Omit "and". Insert instead "or".

**[3] Section 4 (2) (b) (vi)**

Insert after section 4 (2) (b) (v):

(vi) the installation of a domestic oil or solid fuel heating appliance (other than a portable appliance), and

**Legislative Council's amendment agreed to on motion by Mr Whelan.**

**Resolution reported from Committee.**

**Adoption of Report**

**Mr WHELAN** (Strathfield) [12.03 p.m.]: I move:

That the report be now adopted.

**Mr HARTCHER** (Gosford) [12.04 p.m.]: I move:

That the motion be amended by the addition of the following words:

"and (2) That the House call on the Government to proclaim all sections of the Act in the interests of good government in New South Wales."

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

**Division called for and, pursuant to sessional orders, deferred.**

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

**In Committee**

**Consideration of the Legislative Council's amendments.**

*Schedule of amendments referred to in message of 28 November*

No. 1 Page 4, Schedule 1, line 6. Insert "water or wastewater infrastructure on" after "to".

No. 2 Page 4, Schedule 1. Insert after line 6:

(3) Subsection (2) does not authorise the granting of a lease, licence, easement or right of way for the purpose of enabling any of the following functions to be exercised in relation to the land concerned:

- (a) the impoundment of water on the land,
- (b) the permanent inundation of the land,
- (c) the construction of flood mitigation structures on the land.

No. 3 Page 4, Schedule 1. Insert before line 7:

- (4) For the purposes of subsection (3) (b), **permanent inundation** includes any flooding additional to the temporary flooding that already occurs due to natural rainfall.

No. 4 Page 4, Schedule 1. Insert after line 19:

- (7) Subsection (2) does not authorise the granting of a lease or licence in relation to land that is within a wilderness area.

No. 5 Page 4, Schedule 1. Insert after line 19:

- (7) The Minister must cause a register to be kept of each lease, licence, easement or right of way that is granted under subsection (2).
- (8) The register must be kept available for inspection by the public free of charge, during ordinary office hours, at the Head Office of the Service.

**Legislative Council's amendments agreed to on motion by Mr Whelan.**

**Resolution reported from Committee and report adopted.**

**Message sent to the Legislative Council advising it of the resolution.**

## **BUSINESS OF THE HOUSE**

### **Bill: Suspension of Standing and Sessional Orders**

**Motion by Mr Whelan agreed to:**

That standing and sessional orders be suspended to permit the introduction and progress up to and including the Minister's second reading speech of the Disorderly Houses Amendment (Brothels) Bill forthwith.

## **DISORDERLY HOUSES AMENDMENT (BROTHEL) BILL**

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

### **Second Reading**

**Mr STEWART** (Bankstown—Parliamentary Secretary), on behalf of Mr Debus [12.09 p.m.]: I move:

That this bill be now read a second time.

In 1995 the Government reformed prostitution laws in New South Wales. The Disorderly Houses Act 1943 was amended by the Disorderly Houses Amendment Act 1995 to abolish the common law offence of keeping a brothel. This made brothels a legitimate commercial land use regulated through environmental planning instruments under the Environmental Planning and Assessment Act 1979. At the same time amendments to the Summary Offences Act 1988 and the Crimes Act 1900 abolished the common law misdemeanour of keeping a common bawdy house or brothel, and provided that people in a legitimate commercial relationship with a sex worker are not guilty of the offence of living off the earnings of prostitution.

These reforms were designed to overcome the effect of the decision of the Court of Appeal in *Sibuse v Shaw* in 1988, which held that a brothel was a disorderly house regardless of whether it was disorderly in the usual meaning of the word. Prior to the Disorderly Houses Amendment Act 1995 police could seek an order to close any premises operating as a brothel. This meant that even orderly, well-run brothels would be closed and prostitutes would be forced back onto the streets. Street prostitution is generally considered to be undesirable. As the member for Bankstown, I can relate to that because of concerns that prevail in my electorate about street prostitution. Health and social workers have more difficulty reaching street sex workers with health and safety education programs. Street sex workers are at a greater risk of sexually transmitted infections than those who work in brothels, where some medical supervision exists and where the use of condoms may be enforced.

The Government recognises that it is important to have appropriate regulation of brothels to protect the community from the undesirable aspects of prostitution, to protect public health, and to reduce the potential for corrupt conduct on the part of police. I note that the Wood royal commission uncovered widespread police corruption associated with the operation of brothels. The 1995 reforms to prostitution laws removed this avenue for police corruption. The 1995 reforms allowed brothels to be regulated under the Environmental Planning and Assessment Act 1979 in the same way as any other business. This enables proper control over their impact on communities, through locational and management requirements.

A local council can close a brothel if it does not comply with planning regulations. A council can also close a brothel if it can demonstrate to the Land and Environment Court that the brothel is having a significant detrimental effect on the local community and that sufficient complaints have been received from nearby residents or occupiers. In January 2000 the Government established a task force to assess whether the objectives of the 1995 reforms are being achieved through the planning arrangements adopted by local councils, to assess the evidentiary requirements for the prosecution and closure of brothels and, importantly, to assess the success of occupational health and safety programs for sex workers, their clients and the public.

The brothels task force comprised representatives from the Cabinet Office, the Attorney General's Department, the Department of Local Government, the Department of Urban Affairs and Planning, the police ministry, WorkCover, New South Wales Health, the Police Service and the Local Government and Shires Associations. I am pleased that this task force was established largely as a result of a motion that I moved in caucus because of concerns relating to the unregulated operation of brothels and the difficulty that councils were having in closing down brothels when they were affecting local amenities. The task force representatives consulted with local government, sex workers, and social and health workers about the implementation of the reforms.

The task force concluded that the objectives of the 1995 reforms are still relevant and appropriate, and did not recommend any changes to existing policy. However, the objectives of the reforms are not being achieved to the extent that was envisaged. This is not due to deficiencies in the approach taken in the legislation. The task force has recommended that the difficulties local councils face in dealing with brothels may be addressed by improving their understanding of the law relating to brothels and by helping them to optimise the use of those laws. In bringing enforcement action in the Land and Environment Court to close or restrain the use of premises as brothels, councils have experienced difficulties in establishing that premises are operating as brothels. I have raised this issue on several occasions in this House on behalf of the local councils of Canterbury and Bankstown. This bill is designed to clarify the nature of evidence that a local council may present to the court and that the court may rely on to establish that premises are operating as a brothel.

The bill amends the Disorderly Houses Act 1943 to make it clear that the Land and Environment Court can rely on circumstantial evidence to establish that premises are operating as a brothel. Often, direct evidence that premises are operating as a brothel is not available to councils. The bill lists examples of relevant circumstantial evidence that is consistent with the use of premises for prostitution. Considered together, the circumstantial evidence may establish facts from which the court may conclude, as the only rational inference, that the premises are used for the purposes of prostitution. This will assist local councils in proceedings before the Land and Environment Court on an application under the Disorderly Houses Act for premises not to be used as a brothel, or under the Environmental Planning and Assessment Act to restrain the use of premises as a brothel.

This bill is proposed as part of a package of ongoing measures to address the issues identified by the brothels task force. The Government will also be establishing a brothels planning advisory service to provide ongoing assistance to local councils. This support will be provided by a panel, with representatives from State and local government and the sex industry, and someone with expertise in legal issues associated with planning for brothels. This panel will raise awareness in councils of the law relating to brothels. It will assist local councils in developing appropriate planning controls for brothels that identify areas where brothels are compatible with other land uses and that protect the community from amenity impacts. It will also assist councils in developing planning controls which could be easier to enforce.

In terms of public health, the task force concluded that the 1995 reforms have had a positive impact on access by sex workers to health services and occupational health and safety programs. The Government proposes to continue these important reforms. The Government has received strong support from the Local Government and Shires Associations for the proposed bill and advisory service. The associations were members of the task force and their participation was much appreciated. However, the associations have suggested that

the Government set up a licensing system for brothels similar to that of the Liquor Licensing Court. The associations propose that the licensing body be responsible for non-planning issues, such as health and criminal matters, leaving local councils to deal with planning issues. The Government does not support this proposal. Similar licensing schemes in other States have not worked. Sex workers avoid licensing to protect their privacy.

Unlicensed workers are less likely to participate in occupational health and safety programs, and this has impacts on public health. Unlicensed workers would also be vulnerable to corrupt conduct on the part of licensing authorities. Other proposals for legislative amendment to the regulation of brothels have also been made. The Opposition, for example, has proposed to give local councils powers to issue and enforce orders to close illegal brothels without the person who is the subject of the order having a right to appeal to the Land and Environment Court. The 1995 reforms were designed to protect public health and minimise opportunities for corruption. The Government is concerned that some of the proposals to change the regulation of brothels will create new opportunities for corruption and impose a regime that will increase the number of sex workers who are operating illegally. The bill, together with the proposed advisory service, will improve the regulation of brothels. I commend the bill to the House.

**Debate adjourned on motion by Ms Hodgkinson.**

### **CHILDREN (CRIMINAL PROCEEDINGS) AMENDMENT (ADULT DETAINEES) BILL**

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

#### **Second Reading**

**Mr STEWART** (Bankstown—Parliamentary Secretary), on behalf of Mr Debus [12.20 p.m.]: I move:

That this bill be now read a second time.

This bill seeks to amend the Children (Criminal Proceedings) Act 1987 to provide for the automatic transfer to prison of persons convicted of a serious children's indictable offence when they turn 18 years. These offences include homicide, aggravated sexual assault, violent robbery and serious drug offences. The Government believes it inappropriate to hold this category of offenders in juvenile detention beyond the age of 18 years. To continue to do so may jeopardise the chances of rehabilitating younger, less serious offenders.

The Government has sought to provide alternatives to custody for dealing with less serious juvenile offenders. Schemes such as warnings, cautions and conferences provided for under the Young Offenders Act are diverting less serious offenders. Increased funding has been provided for additional programs and treatment places to deal with the drug abuse we know can frequently lead young people into a pattern of offending behaviour. As a result of this approach we have seen a decline in the numbers of young people held in detention since 1995. But as the numbers of less serious offenders in detention has declined, the number of serious offenders has remained stable.

A recent survey by the Department of Juvenile Justice showed that between 1999 and this year the number of detainees sentenced under section 19 of the Children (Criminal Proceedings) Act 1987 had risen from 6.9 per cent of the total detainee population to 9.2 per cent. Under section 19 a judge can sentence a serious offender to a term of imprisonment to be served wholly or partially in a juvenile detention centre. It is this section which the bill seeks to amend. The bill provides that a person convicted of a serious children's indictable offence is not eligible to serve a term of imprisonment in a detention centre beyond the age of 18 unless the court determines there are special circumstances to justify it, or if the term of imprisonment will end within six months of his eighteenth birthday.

In making a determination about special circumstances the court will have regard to the vulnerability of the person, the availability of appropriate services or programs, and any other matter the court considers relevant. A person who is due to be transferred to prison on attaining the age of 18 years because there were no special circumstances at the time of sentencing may later seek leave to apply to the sentencing court for an order preventing transfer to a prison on the grounds that there are special circumstances justifying the detention of the person in a detention centre. Where a person's term of imprisonment is scheduled to finish within six months of his eighteenth birthday it would be impractical to transfer him. To do so may also work against the chances of successful reintegration into the community.

The bill also provides that any person sentenced under section 19 is not eligible to serve a term of imprisonment in a detention centre beyond his twenty-first birthday, unless the term ends within six months of

his attaining that age. This will apply to less serious offenders and to any person convicted of a serious children's indictable offence where the court has determined special circumstances allowing them to remain in detention beyond their eighteenth birthday. The bill is not retrospective. It will apply to all persons sentenced after its commencement.

The Government has requested the Ombudsman conduct a review of the first three years of the operation of the amendment. The bill will protect the integrity of our system of detention centres. This is a system focused on dealing with younger offenders. The presence of a significant proportion of older more serious offenders serving long sentences can compromise the good order and rehabilitation focus of detention centres. The intent of this bill is to see those offenders placed within the appropriate programs in Corrective Services.

Juvenile Justice and Corrective Services staff will convene a case conference prior to the transfer of any person to ensure appropriate placement and programming for their rehabilitation. This is a sensible amendment that seeks to achieve a greater separation between offenders under 18 and those over 18. It will result in serious convicted offenders being transferred to the adult system at age 18, while providing a judge with the ability to determine in special circumstances that they may remain in a juvenile justice facility until age twenty-one. I commend the bill to the House.

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

### **CRIMINAL LEGISLATION AMENDMENT 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) [12.25 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Criminal Legislation Amendment Bill 2001. The bill contains a package of reforms designed to both enhance the criminal laws of the State and remedy minor anomalies that presently exist. This bill continues the Government's commitment to providing a responsive and effective criminal justice system. The bill has 13 schedules that amend the following Acts: the Children (Community Service Orders) Act 1987; the Children (Criminal Proceedings) Act 1987; the Crimes Act 1900; the Crimes (Administration of Sentences) Act 1999; the Crimes (Sentencing Procedure) Act 1999; the Criminal Appeal Act 1912; the Criminal Procedure Act 1986; the Drug Misuse and Trafficking Act 1985; the Evidence (Children) Act 1987; the Poisons and Therapeutic Goods Regulation 1994; the Summary Offences Act 1988; and the Young Offenders Act 1997.

I turn now to the provisions of the bill. Schedule 1 amends the Children (Community Service Orders) Act to repeal the offence of breaching a community service order, to allow courts to deal with breaches of community service orders and to add administrative flexibility to the scheme. Currently, it is a criminal offence for a child to breach a community service order. Rather than proceed with a separate fresh offence, it is considered more appropriate to allow either an administrative extension of the order—for minor breaches—or for the court to re-sentence an offender in light of the breach. A similar provision applicable to adults was repealed as part of the significant reforms to sentencing laws introduced last year. These amendments implement recommendation 22 of the Law Reform Commission report on sentencing and will bring the children's community service order regime in line with the adult version of the regime.

Schedule 2 also relates to amendments concerning children and the law. It amends section 11 of the Children (Criminal Proceedings) Act 1987 to prohibit the publication of the name of a person involved in a criminal case who was under 18 at the time of the offence but is over that age when the matter comes before the court. Section 11 of the Children (Criminal Proceedings) Act 1987 prohibits the publication of the name of any child who is a witness or a party to criminal proceedings, or who is mentioned or otherwise involved in the criminal proceedings both before and after the proceedings are disposed of. Penalties of up to \$5,500 and 12 months gaol may be imposed for breaches of the section.

The legislation is, however, "unclear as to whether the provision applies where the child is less than 18 at the time the offence was committed but over 18 by the time the matter is before the court. Several

prosecutions have been hindered because of this ambiguity. The purpose of the Children (Criminal Proceedings Act) 1987 is to provide a legislative regime for the conduct of criminal proceedings against persons under 18 or who were under 18 when the relevant offence was committed and are under 21 when charged before the court. The section was always intended to continue to apply after the named child turned 18. It was clearly not intended that a person who named a child witness, for example, could escape prosecution for an offence under section 11 if they waited until the child turned 18 before naming them. The amendment will remove the ambiguity and ensures that a person who names a child can no longer escape prosecution for an offence under section 11 if they waited until the child turns 18 before naming them. These amendments do not affect the discretion of the court to authorise the publication of the name of a child convicted for a serious children's indictable offence if it is appropriate to do so.

Schedule 3 to the bill amends the Crimes Act 1900. The first amendment rationalises and reforms the law of abduction. Honourable members will recall that this Government recently reformed the law of kidnapping as part of the Crimes Amendment (Aggravated Sexual Assault in Company) Act 2001 and the Crimes Amendment (Gang and Vehicle Related) Amendment Act 2001. Upon examination of the offence of kidnapping it was found that the remaining offences within the abduction division were also ripe for reform. These include offences such as abduction of a woman against the will of parent, forcible abduction of a woman and abduction of a girl under 16. The majority of these offences have been on the statute books since the Crimes Act was first proclaimed in 1900.

An examination of the judicial information research system reveals that in the past seven years there were no cases where persons were sentenced under sections 86 or 87 of the Crimes Act 1900 and only seven cases of persons sentenced under sections 89 and 90. These offences are more than adequately covered by the existing offences of kidnapping and sexual assault. I also note that kidnapping and sexual assault offences have the same or a higher maximum penalty than the abduction offences. The language and concepts of the offences in the division are also antiquated and discriminatory and ought to be updated. Item [3] of schedule 3 repeals sections 86 to 91 of the Crimes Act. The offence of child abduction remains but its language has been updated.

The second amendment to the Crimes Act creates a new offence of bomb hoaxes. This amendment is designed to overcome a gap in the existing law in situations where, for example, a person leaves an article which is not dangerous, with the intention of conveying fear for the safety of a person or property, knowing that information to be false or misleading. The mischievous and/or vexatious intent of the defendant is adequately covered by a maximum penalty of five years. The offence is not one where any criminal damage is necessarily sustained.

It is not intended to attach a fine to the penalty or make the penalty higher in order to encourage the courts to make compensation orders in favour of the emergency services, for example, which may have suffered loss as a result of the commission of the offence. The provision is complementary to existing provisions within the Crimes Act 1900 such as section 93ID, making false statements concerning contamination of goods with intent to cause public alarm or economic loss, and section 203 involving a false statement that a person or property is in danger. Item [6] of schedule 3 omits section 203, to fit more appropriately with the new section 93II.

The third amendment to the Crimes Act inserts flexibility into the apprehended violence order scheme. Item [7] of schedule 3 amends section 562H to extend the duration of telephone interim orders in special circumstances from 14 to 28 days. Those circumstances are where the authorised justice is satisfied that the closest Local Court to the where an application has been made does not sit within the fourteen day period of a normal interim order. The amendment is designed to overcome difficulties in ensuring the safety of victims over the Christmas and New Year period and in remote locations where local courts sit less frequently.

While magistrates are able to relist at more central locations, it inevitably results in considerable inconvenience to both the person in need of protection and the defendant. In some cases they may be required to travel perhaps 150 kilometres to attend the Local Court before which the proceedings are listed. An order may not be made if the defendant lodges an objection against an extension. The defendant may also apply to an authorised justice or court to consider applications to vary the extended period. There are also responsibilities placed upon the police to notify the defendant accordingly.

The fourth amendment to the Crimes Act relates to the offences of child pornography. Item [9] of schedule 3 extends the statute of limitation period from six months to two years for the offences of possession of child pornography and publication of child pornography. This is designed to overcome prosecution difficulties

arising from the increased electronic transmission of child pornography across State and national boundaries. Evidence about the commission of such offences from foreign jurisdictions is often not obtained within the six-month period and a two-year period was considered to be more appropriate.

Item [10] clarifies the meaning of the defence to possession of child pornography. New paragraph (a) of section 578B (5) states that it is a defence to a prosecution of child pornography to prove "that the defendant did not know, or could not reasonably be expected to have known, that the film, publication or computer game concerned is classified RC or would be classified RC". There has been some confusion regarding the scope of this defence. It is not the intention of the section to apply only to those engaged in classification of adult videos or publications as people who could reasonably be expected to know what the classification RC means. This amendment makes that clear.

Schedule 4 amends the Crimes (Administration of Sentences) Act 1999 to require the Parole Board to take into consideration, when determining the release of certain offenders on parole, the anniversary date of the commission of their offence. This amendment is designed to overcome the trauma caused to victims and their families when an offender is released from custody on the day of the anniversary of the commission of their offence. The provision will apply in relation to offenders who have committed crimes against the person such as homicide, sexual assaults, and other violent offences committed against persons.

Schedule 5 amends the Crimes (Sentencing Procedure) Act 1999 in relation to guideline judgments and to clear up inconsistencies in the Act as a result of changes to legislation made during the sentencing reform process. In *Wong v The Queen; Leung v The Queen* [2001] HCA 64 reported on 15 November this year, the High Court considered the jurisdiction of the New South Wales Court of Criminal Appeal to issue a guideline judgment. Three judges of the High Court, Justices Gaudron, Gummow and Hayne, held that while the Court of Criminal Appeal has statutory power to issue a guideline judgment on the application of the Attorney General, it has no power to consider and issue guideline judgments on the court's own motion. The decision of their Honours in this joint judgment did not turn upon the power of the court to issue a guideline judgment.

However, for abundant caution, the Government considers that it is appropriate to introduce these amendments in order to ensure that the court has the power and jurisdiction to give guideline judgments on its own motion—proposed section 37A; and to retrospectively validate any such guideline from judgments previously given, which is proposed section 41. Proposed section 37A (2) ensures that when the Court of Criminal Appeal proposes to issue a guideline judgment on its own motion, that the Attorney General, the Senior Public Defender and the Director of Public Prosecutions be given an opportunity to appear.

In other words, this bill fixes the technical problem identified in Wong's case. A consequential amendment is also made to ensure that guideline judgments may be reviewed, varied or revoked in any subsequent guideline judgment of the Court—proposed section 37B. The promulgation of guideline judgments is an integral part of the Government's strategy to provide guidance to the courts and the community about sentencing practices and principles. These amendments ensure the continued use and effectiveness of these judgments.

There has been some speculation raised in the media about the impact that the recent High Court decision may have on sentencing guidelines. The Government is concerned that what is essentially a technical point in terms of the application of guidelines in some instances has been misinterpreted in the media to cause concern that guidelines judgments are altogether somehow unlawful. That is certainly not the case. In fact, the High Court could be said to have reflected quite favourably upon the guideline issued in response to Attorney General's Application No. 1, that is, the matter of Ponfield, which came about under the existing law that gives the Attorney General the power, as first law officer, to seek the promulgation of a guideline.

Under the proposals in this schedule to the bill, there will now be a clear basis for the court to issue a guideline judgement on its own motion. The amendment will ensure that the power is conferred retrospectively to validate the past exercise of this power by the court. It is not, and has never been, any secret that sentencing guidelines are preferred Government policy. It therefore does not offend any jurisprudential principle to introduce these retrospective provisions to make plain and explicit the powers of the court. Certainty and consistency are the key to community confidence in sentencing. Sentencing guidelines, which have, after all, been operating in one form or another for 20 years in the United Kingdom, actually implement a regime of certainty. It is easy to talk about certainty but there is little practical use in enunciating the principle of certainty without providing a mechanism to implement it.

Sentencing guidelines work. They are the most effective way of making sentencing consistent. Recent figures show that in some cases guidelines produce longer sentences—more appropriate sentences. More people are receiving custodial sentences. This is what the public wants: sentences that reflect the serious nature of the crime. The Government has introduced this aspect of the bill because sentencing guidelines work. The remainder of schedule 5 deals with the tidying up of the Crimes (Sentencing Procedure) Act as a result of changes made during the sentencing reform process. Section 51 of the Crimes (Sentencing Procedure) Act 1999 provides that a court may impose conditions it considers appropriate on a parole order when sentencing an offender to a term of imprisonment. Those conditions may require the offender to whom the order relates to be subject to supervision during a specified period.

In five days out of seven, there is no supervision while a person is serving periodic detention. It is incongruous and a waste of resources to commence supervision after the periodic detention order has been completed. Item [9] of schedule 5 amends section 51 to provide that there is to be no supervision on parole after a person has served a periodic detention order. A similar provision in the now repealed section 27 (5A) of the Sentencing Act 1989 was inadvertently not carried over into new section 51. Items [10] and [11] amend sections 55 and 57 to extend the consecutive sentence provisions to escapees from inmate transport. Section 55 (5) of the Act provides that sentences imposed on inmates who escape from a correctional centre are not presumed to be concurrent. Section 57 requires that sentences for the offence of escape committed while a convicted inmate must be consecutive. The definition of "correctional centre" was widened as part of the sentencing reform package to include not merely premises proclaimed by the relevant Act but also:

... any police cell or court complex in which an offender is held in custody ...

The definition does not apply to prisoners in the custody of correctional officers during prisoner transport, including when offenders are being walked from cells to a court by a correctional officer. For a maximum security inmate, an escape from a transport truck is virtually the only chance the offender will have to escape. It is also anomalous that an escape from a correction centre or cell attracts a harsher regime than escapes while being transported between them. The amendments provide that a sentence imposed for any escape committed while under the control of designated correctional officers will be a consecutive sentence. Item [12] amends section 95 (b) to remove the requirement for persons on a bond to inform the Local Court of their change of address.

This is a new requirement that was added at the time of drafting the Crimes (Sentencing Procedure) Act 1999. The requirement is superfluous and introduces an unnecessary duplication of processes. There are two types of behaviour bonds available under section 95: those that require supervision by the Probation and Parole Service, and those that do not. If a bond requires supervision by the Probation and Parole Service, the offender will, of necessity, be required to keep his or her parole officer informed of the change of address. If the person requires no supervision, a change of address is of no relevance to the court unless the person breaches the bond. If the person does breach the bond he or she will be brought before the court in any case with the new address. The section introduces an unnecessary duplication of processes and has no practical utility.

Schedule 6 amends the Criminal Appeal Act. Item [1] of schedule 6 provides the Court of Criminal Appeal with the power to deal with matters that are not the subject of an appeal in special cases. Specifically, the amendment is designed to overcome a gap in the power of the court to deal with related matters that are not the subject of an appeal. This matter arose in the case of *R v Itamua* (2000) NSWCCA 502. In the course of its judgment the court drew attention to an anomaly in the Criminal Appeal Act 1912, pursuant to which the court, when upholding an appeal by an appellant against a manifestly excessive sentence, can only impose a new sentence in respect of the offence which is the subject of the appellant's appeal. That is, the court cannot resentence that appellant for offences in respect of which no appeal has been lodged, even when the court takes the view that those sentences are manifestly inadequate and all of the sentences were imposed by the same judge at the same time in respect of related matters. This amendment will enable the Court of Criminal Appeal to deal with the totality of criminal offences when a situation arises such as that in *R v Itamua*.

The remaining amendments provide the Court of Criminal Appeal with the power to develop its own flexible rules for time limits in lodging appeals. Section 10 (1) of the Criminal Appeal Act 1912 provides that a notice of appeal or the seeking of leave to appeal must be lodged by any person convicted on indictment within 28 days of conviction or sentence. The court may extend the time within which a notice of appeal is required to be given to the court—section 10 (3). Lodging a notice of appeal is an extremely complex task. It requires that the preparation of transcripts and the correction by trial judges of their summing up and remarks on sentence have been finalised. It then requires an examination by counsel of the transcripts including the summing up, remarks on sentences, and trial proceedings; and a determination by the Legal Aid Commission of merit, particularly for those who are indigent and in custody. The current time limit of 28 days is impractical in most cases.

In order to overcome practical difficulties and expedite matters more efficiently, it is proposed to provide the court with a flexible rule-making power. Notice of the intention to appeal within 28 days will still be required and thereafter certain documents such as transcript and written submissions to accompany any actual notice of appeal will also be required. As this system may change from time to time, it is best done by rules rather than in the statute. Schedule 7 amends the Criminal Procedure Act. Item [1] repeals section 27 (4AA). The effect of this provision is to increase the penalty and sentencing options available for the offence of knowingly harbouring an escapee under section 310G of the Crimes Act when this offence is dealt with in the Local Court. Currently, the maximum penalty for this offence is three years imprisonment. The offence is a Table 1 offence and, under section 20 (1) of the Criminal Procedure Act 1986, must be dealt with summarily unless the relevant election is made.

Section 27 (4AA) provides that the maximum penalty is 50 penalty units when the offence is dealt with as a Table 1 offence. This means that the only sentencing options available when the matter is dealt with in the Local Court are a section 10 dismissal, bonds of various kinds and a fine of up to \$5,500. The court cannot impose a community service order, a periodic detention order, a suspended sentence or a short custodial sentence. The limited range of sentencing options necessarily limits the kinds of cases which can appropriately be dealt with in the Local Court. The repeal of section 27 (4AA) makes available the full range of sentencing options so that these offences, when the objective criminality and the antecedents of the offender render that course appropriate, can be properly dealt with by the Local Court exercising its summary jurisdiction.

Items [2] to [8] amend sections 36 and 37 of the Criminal Procedure Act 1986 in relation to back-up and related charges. Although the Supreme Court and the District Court have the power at the conclusion of the trial of an accused person to deal with certain summary offences related to indictable offences, few back-up and related offences are being dealt with following trial. This results in a subsequent hearing in the Local Court of the more serious offence some time after the trial, prolonging the delay in having matters finalised, and gives rise to possible unfairness to accused persons. This also results in added stress to victims and witnesses, and incurs additional expense to all stakeholders.

The court may deal with relevant back-up or related offences on its own motion, or on the application of the accused person or the prosecutor, but may not do so unless both the accused person and the prosecutor have consented to the offence being dealt with under this part. The amendment removes the need for the trial court to seek consent from the parties to deal with back-up or related offences and provides that the court is required to deal with such offences unless it is not in the interests of justice to do so. In addition, the process of managing such back up and related offences has been improved by facilitating the transfer of these matters to the Supreme Court or the District Court at the time of committal. The amendments will achieve a more efficient use of court time and reduce wastage and inconvenience to parties and witnesses.

Schedules 8 and 11 amend the Drug Misuse and Trafficking Act and the Poisons and Therapeutic Goods Regulation in relation to the prohibition of cash sales of precursor chemicals. The offence of possession of precursor chemicals commenced in February 2001. It created a new offence in the Drug Misuse and Trafficking Act 1985 and amended the Regulation of the Poisons and Therapeutic Goods Act 1989 so that certain chemicals were prohibiting from being bought with cash. This was to ensure that the sale of such chemicals was restricted in line with industry practice to stop criminal activity in the industry.

Peak industry organisations and police across Australia need to have the ability to update the list of precursor chemicals as required. The list of precursors needs to be flexible in order to keep up with derivations of the chemicals introduced by drug suppliers. Amending the Regulations of the Poisons and Therapeutic Goods Act 1989 is, however, complicated. The Poisons and Therapeutic Goods Act 1989 is primarily focused on health requirements for pharmaceutical chemicals. The prohibition on cash sales and the penalty for the breach of this regulation is more correctly characterised as controlling the creation of prohibited drugs. Accordingly, the current amendments simply remove the relevant regulation from the Poisons and Therapeutic Goods Regulation and create a regulation-making power in the Drug Misuse and Trafficking Act so that the appropriate regulations may be properly made.

Schedule 9 amends the Evidence (Children) Act 1987. The Act reformed the law relating to children's evidence in criminal and certain other proceedings. One of the main reforms was the provision that enabled electronically recorded interviews with a child witness, other than a defendant, to be admitted into evidence as part or all of a child's evidence-in-chief in any criminal proceedings. The Act also allows a child to give evidence by means of closed-circuit television [CCTV] facilities in certain proceedings. The entitlement of a child to use electronically recorded statements as evidence-in-chief and to give evidence by way of CCTV is

limited to children under the age of 16 years. Item [1] of schedule 9 allows the electronically recorded statements of a child witness, made when they are less than 16 years of age, to be used as their evidence-in-chief as long as the child concerned is under 18 years of age at the time of trial.

Item [2] of schedule 9 allows a child less than 18 years of age to give evidence by means of CCTV in matters in which the child was under 16 years of age when the charge was laid against the alleged offender. These amendments support the purpose of the Act in affording greater protection to children and improving the quality of their evidence, while not intruding on the fundamental rights of the accused person. This is particularly relevant in the case of sexual assaults. In some cases the delay in bringing a matter to trial is beyond the control of either the prosecution or the defence. On a practical level, prosecutors find it difficult to lead evidence from a transcript of an interview which, in some cases, can be of five hours duration. Child witnesses can also find it difficult to refresh their memory from the transcript. To protect the rights of the accused person, the court must not extend the entitlement to use electronically recorded evidence in court and to give evidence by way of closed circuit television to a child over the age of 16 years if it satisfied that it is not in the interests of justice to do so.

Schedule 12 amends section 27D of the Summary Offences Act 1988 to allow a correctional officer to arrest a person who possesses an offensive weapon in a place of detention. Section 27D of the Summary Offences Act 1988 creates an offence of possessing, without reasonable excuse, an offensive weapon or implement in a place of detention. This offence was created when the Crimes (Sentencing Procedures) Act 1999 and the Crimes (Administration of Sentences) Act 1999 were being drafted. Other offences contained in part 4A of the Summary Offences Act 1988 relating to places of detention were transferred from the Correctional Centres Act 1952. The other offences contained in part 4 allow for powers of arrest to be exercised by a correctional officer. This arrest power was inadvertently not included in the new offence under section 27D.

The proposed amendment will bring section 27D into line with other provisions in part 4A by giving a correctional officer who detects a person allegedly committing an offence under section 27D the same powers of arrest as the correctional officer already has in relation to a person who allegedly commits an offence under sections 27B, 27C or 27E. It will provide consistency and is a practical reform of our criminal law. Schedule 13 amends the Young Offenders Act in relation to cannabis cautioning. Currently, the police may caution a young person for possession of up to 30 grams of cannabis. This capacity to caution comes from the Young Offenders Act 1997, which allows up to a small amount, that is 30 grams as prescribed by the Drug Misuse and Trafficking Act 1985.

Under the adult scheme, an adult may be cautioned for possession of up to 15 grams of cannabis for personal use. This capacity to caution is within the discretion of the individual police officer, subject, of course, to Commissioner of Police guidelines. The Government is aware of the concerns surrounding this apparent anomaly in drug amounts. It is proposed to amend the scheme to reduce the amount of cannabis possession to half the small quantity, that is 15 grams. An offence under section 27 or 28 of the Drug Misuse and Trafficking Act of aiding or abetting the commission of such an offence may be similarly dealt with. A residual discretion is available for police officers to caution young persons for amounts between 15 and 30 grams of cannabis in exceptional circumstances, where it would be in the interests of rehabilitation and appropriate in all the circumstances to do so. The bill contains constructive and worthwhile reforms which will improve the New South Wales justice system. I commend the bill to the House.

**Debate adjourned on motion by Ms Hodgkinson.**

## **ASSENT TO BILL**

Assent to the following bill reported:

Insurance Protection Tax Amendment Bill.

## **INDUSTRIAL RELATIONS (ETHICAL CLOTHING TRADES) BILL**

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

### **Second Reading**

**Mr STEWART** (Bankstown—Parliamentary Secretary), on behalf of Mr Amery [12.57 p.m.]: I move:

That this bill be now read a second time.

The Industrial Relations (Ethical Clothing Trades) Bill is the central element of a package of initiatives that the Government is introducing for clothing outworkers. The objectives of this package are to ensure that clothing outworkers receive all the lawful entitlements that other workers enjoy while generally enhancing the long-term viability of the New South Wales clothing industry. Home-based production of clothing is a growing world-wide phenomenon. Unfortunately, so too is the exploitation of these workers. Outworkers produce fashion garments mostly for poverty wages in deplorable conditions. They work in what are effectively sweatshops.

Almost half the people involved in Australian clothing production are located in New South Wales. They meet one quarter of the State's clothing demand. Since the reduction of industry protection in the 1970s the clothing sector has become an industry structured around outwork. Since 1996 numerous reports have highlighted the difficulties faced by workers involved in home-based production. For example, the New South Wales pay equity inquiry conducted by the Industrial Relations Commission, referring to outworkers, stated:

... they are treated oppressively in their ordinary working lives and exploited both in terms of the payment received and their conditions of work. The circumstances of their work are disgraceful.

I can certainly vouch for that, as there are a number of outworkers in the Bankstown and surrounding areas who are exploited. This bill will help improve their conditions. Clothing outworkers typically work for between \$2 to \$8 per hour, from which they have to purchase their own machines and meet the cost of overheads. Work cycles are erratic, job security does not exist and there is frequent work injury. A myriad of welfare and industrial problems exist for outworkers and their family members. Many children are sacrificing schooling and social activities to assist at home. There have been some voluntary steps towards improving the situation for clothing outworkers.

For example, some responsible employers and retailers have chosen to comply with ethical codes of practice such as the National Homeworkers Code of Practice and the Target Deed of Co-operation. Also suppliers of clothing and textile products to this Government have clear responsibilities and monitoring obligations. Notwithstanding these limited exceptions, non-compliance with legislative and award requirements for outworkers continues to be endemic in the clothing industry.

The Industrial Relations Act contains a provision deeming outworkers in the clothing trades, however contracted, to be employees. This should be sufficient to ensure that they receive their award entitlements. However, the definition is lacking in legal clarity and its perceived weaknesses are being shamelessly abused. It is proving extremely difficult to achieve improvements because of the nature of the industry itself. Retailers frequently dictate time and financial constraints that affect the whole supply chain down to the outworkers. Multiple layers of subcontracting often make it difficult to identify who is the employer. Outworkers generally lack an understanding of their entitlements and are fearful of complaining. This is exacerbated where the outworkers have a refugee or immigrant background. The entitlements themselves are contained in a complex matrix of Federal and State award provisions. I again quote from the New South Wales pay equity inquiry's comments on outworkers:

... there is a veil of secrecy, intimidation and fear that covers the industry of outworkers.

The Government has never accepted the view that the clothing industry can only be competitive if it is subsidised by its outworkers. In 1999 an issues paper "Behind the Label: the New South Wales Government's Clothing Outwork Strategy" was circulated proposing numerous remedial options. The strategies were refined a result of the submissions received, and the resulting package of initiatives embodying many of the key elements has been carefully tailored and funded. Before explaining the bill, I will briefly outline the non-legislative parts of the package. The Department of Industrial Relations is strengthening its compliance and enforcement activities by expanding from two to four the number of bilingual inspectors. This is to address the additional difficulties arising from language and cultural differences of clothing outworkers from South-East Asian countries. To date persons speaking Vietnamese and Chinese have been appointed.

The department is in the process of finalising best practice investigative techniques for the clothing industry arising in part from experiences of the Clothing Entitlements Task Force. This task force is comprised of officers of the Department of Industrial Relations, the WorkCover Authority and the Textile, Clothing and Footwear Union. This union has worked tirelessly to improve the conditions of outworkers in the clothing industry. These investigative techniques will provide guidelines and tools for future compliance and enforcement activities in the complex chain contracting situations.

The department will be sponsoring at least one supply chain management project to identify management savings and efficiency improvements that can be achieved. And finally there will be training for

outworkers who want to improve their position in the clothing industry or who would prefer to exit the industry. The department, in conjunction with the Department of Education and Training, will be establishing and conducting education and retraining programs. Outworkers will be assisted by recognition of prior skills and by up-skilling and reskilling activities that will be delivered by community-based programs.

I turn now to the bill. This is a new, specific-purpose statute that significantly extends beyond the traditional employer and employee groups. The central feature will be the establishment of an Ethical Clothing Trades Council. The council will be chaired by a person who has relevant knowledge of outwork practices in the clothing industry. Its members will comprise nominated representatives of key retail, business, industry and union organisations in the clothing trades and a community or consumer representative. The council will be appointed initially for a maximum of three years. During that time its major priorities will be to support voluntary compliance by the various sectors of the clothing industry with practices that ensure outworkers receive their lawful entitlements.

If this is unsuccessful then the council will provide advice on the need for, and the best format of, a mandatory code. The council will report at three monthly intervals to the Minister. The council's assessment of the success or otherwise of the voluntary measures is required after 12 months of operation. During that time particularly, the council will be focussing its endeavours on promoting and fostering relevant consultation and the adoption and observance of self-regulatory mechanisms. These mechanisms include voluntary industry agreements such as the target code and the Homeworkers Code of Practice. The council will be supporting changes designed to increase their effectiveness.

The council will advise on developments in the industry and compliance issues and may conduct education and information dissemination programs. The introduction of a mandatory code of practice for the clothing industry is provided for in the bill. However, it is not the Government's preferred option. A mandatory code will only proceed if the self-regulatory mechanisms fail to deliver lawful entitlements to outworkers or the industry participants are not attempting in good faith to negotiate improvements or extensions to those mechanisms. A mandatory code of practice would be made by ministerial order and published in the *Government Gazette*. Once in force any amendment of the code, any exception from its requirements and any proposal for its revocation would be undertaken having regard to the advice of the council. Failure to comply with an obligation under the code will carry a maximum penalty of \$11,000. Enforcement procedures under the Industrial Relations Act are applied within the bill for the purpose of enforcing the code. For example, departmental inspectors' investigative powers will extend to any person who is required to comply with the code.

A specific exemption from the requirements of the Trade Practices Act is provided for a mandatory code. This is because adherence to the code may result in agreements affecting competition or other anti-competitive arrangements. In this respect a mandatory code is likely to contain similar elements to those that are currently in the voluntary homeworkers code. The Australian Competition and Consumer Commission has already granted the homeworkers code an authorised exemption under the Trade Practices Act after concluding that any anti-competitive effect is outweighed by the benefit to the public. There is provision for persons or bodies to be exempted from a mandatory code. This is intended to offer both incentive and reward for those responsible organisations that demonstrate a continuing commitment to effective voluntary mechanisms such as those mentioned earlier. In addition to the separate statute, the bill contains several amendments to the Industrial Relations Act. These are also directed at ensuring that clothing outworkers receive their lawful entitlements.

As mentioned earlier, there has been significant attempted avoidance of the deemed employee provision of the Act relating to clothing outworkers. Various arguments are given to support avoidance. For example, the current definition requires an actual contract of service employment, or an employer must be the person with whom the outworker directly deals, or an outworker must be covered specifically by a clothing trades award. The definition is being amended to give greater clarity and to ensure that it properly applies to those who were always intended to be within its scope. In respect of remuneration as an employee, outworkers are especially disadvantaged because of the complex subcontracting chains that exist in most instances between actual garment production and sale. It is often very difficult to establish who is the employer and outworkers are seriously hampered in taking action for outstanding remuneration. Sham layers of operation have been used specifically to avoid payment.

In addition to current award and legislative provisions concerning liability and recovery, the bill inserts a new mechanism which will allow a clothing outworker to claim unpaid remuneration from his or her employer. The claims procedure will apply to all employers, throughout the contracting chain, including deemed

employers, but excluding any person whose sole connection with the clothing industry is the sale of clothing by retail. Under the procedure a claim will be made by serving a statutory declaration with supporting details on the apparent employer. The apparent employer is the person whom the outworker believes to be his or her employer.

Practically, this may or may not be the person with whom the outworker directly deals in arranging the work. In terms of the definition of "employer" it is the person or persons for whom the outworker performs work, either directly or indirectly, even if they are higher up the production chain. Indeed, this claims procedure may entitle the outworker to validly serve a claim upon the principal manufacturer or fashion house which ultimately receives the finished work. The person served with the claim is liable for payment unless within 14 days the actual employer is identified and within a further 14 days that person accepts and pays the claim in full. To the extent that the claim is unpaid the apparent employer remains liable.

An apparent employer who pays all or part of the claim of an actual employer may deduct that amount from any money owing to that other person. This provision will be particularly equitable where the outworker serves the claim on a person higher up in the production chain who deals through subcontractors. A similar process already exists in the voluntary homeworkers code. A specific offence will safeguard against any possible abuse of this provision. Also, all rights of both the apparent and actual employer to take proceedings in relation to money owed are preserved. If necessary, the usual recovery procedure under the Act will be able to be used. To improve its effectiveness for clothing outworkers the definition of remuneration is extended to statutory annual and long service leave entitlements whether or not they are included in an award. The only defences to a claim will be that the work was not done or that payment for the work that was claimed to have been done is incorrect.

Intimidation to prevent or discourage a claim or the making of a false statement will be an offence with a maximum penalty of \$11,000. It is expected that the procedure will encourage more transparent relationships and an overall reduction in inefficient subcontractor chains, particularly where those chains have been used primarily for avoidance purposes. It should also promote arrangements that are based on payment of the correct remuneration to clothing outworkers. The powers of Department of Industrial Relations inspectors that are used for the purpose of compliance and enforcement are amended in the bill. Inspectors have general powers to enter premises of an employer and inspect any work being done. Entry to premises that are used for residential purposes requires the permission of the occupier or a search warrant.

In respect of the clothing industry the amendment will enable entry to premises of the employer that are also used for residential purposes without the need for permission or a warrant. The amendment will enable the investigation of sweat shops in the suburbs that are organised by an employer for the performance of work in the clothing trades or the manufacture of clothing products. These Industrial Relations Act amendments particularly complement the non-statutory initiatives that were previously outlined. The Government is strongly committed to ensuring that clothing outworkers receive their lawful entitlements such as pay, leave and other conditions and a safe working environment. This will best be achieved by strategies that promote a vibrant clothing sector within the State.

The initiatives in the Industrial Relation (Ethical Clothing Trades) Bill and the wider package are designed to strongly support a mature approach by the clothing industry where all participants receive a fair share. Inequitable and avoidance practices are not acceptable. The bill makes provision for intervention through a mandatory code and the Government will act if necessary. The Government will also be keeping under review the wider textile industry with a view to considering later expansion of these measures. I commend the bill to the House.

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

#### **PRIVATE MEMBERS' STATEMENTS**

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**Mr FACE:** I seek the leave of the House to permit up to 26 members to make private members' statements forthwith.

**Leave granted.**

## VAUCLUSE-DOVER HEIGHTS HIGH SCHOOL STAFF APPOINTMENTS

**Mr DEBNAM** (Vaucluse) [1.15 p.m.]: I rise today to talk about teacher selection on merit and specifically about the teacher selection at the merged Vaucluse-Dover Heights High School. This is actually the fourth time this month I have addressed the House on schools in my electorate and on teacher selection and enrolments. The last time I spoke on the school was Friday 16 November, two weeks ago, when I highlighted the attempt of the Minister for Education and Training to mislead Parliament and the people of New South Wales on enrolments. He had addressed that issue during question time on 15 November. I raised my concerns the following day, 16 November, and 72 hours later that Minister was gone. That was good for New South Wales. I appreciate that the Minister presumably tried to do his best in his portfolio, but it was not good enough. Here we are today, another day, a new Minister, but we have the same old problems.

For the last month debate has raged over whether the Carr Government will agree to merit selection versus seniority of the principal and teachers at the merged Vaucluse-Dover Heights High School. The New South Wales Teachers Federation demands that the new staff be chosen on transfer points and refuses selection on merit. The Government has caved in to the Teachers Federation. As a result, the school's teachers are rebelling against the federation and the parents are demanding that the Government overturn the decision. It is difficult to believe that the Government has allowed the Teachers Federation to hijack the issue because it really does go to the heart of public education in this State and to the future of public education, which is what the Government has been trying to talk about all this year.

There is no doubt in my mind that it will be the first test for the new Minister for Education and Training. The Minister has now finally agreed to meet with Dover Heights parents and teachers at 4.30 p.m. on Monday 3 December, but I suggest that at this stage he is unlikely to agree to merit selection. I suggest he reconsider that issue. If the new Minister has been advised by his department to go along with the Teachers Federation, I suggest he have the courage to overturn that advice. On 9 November the teachers at Dover Heights High School moved a resolution that I would like to read onto the record. It states:

### *TEACHERS FEDERATION BETRAYS STUDENTS, PARENTS AND TEACHERS*

#### **WHO IS RUNNING OUR STATE SCHOOLS?**

A meeting of teachers at Dover Heights High School today passed unanimously a resolution which stated that they distrusted the Teachers Federation executive's commitment to quality public education for its role in the decision of the Department of Education and Training to use transfer points and not merit to determine the principal of the new Dover Heights/Vaucluse high school.

It also condemned the Teachers Federation executive:

- for failing to inform teachers at Dover Heights that Federation officers, in negotiations with Department of Education and Training officials, would push for a transfer points appointment.
- *for failing to represent the views of teachers and parents in these negotiations, when he was very aware that the Dover Heights school community and Vaucluse teachers wanted a principal appointed on the basis of merit.*

The Federation executive has completely betrayed the Dover Heights High School students, parents and teachers and has further undermined public education in the Eastern Suburbs.

The teachers also called on the NSW government to include the school community as well as the NSW teachers Federation in negotiating important staffing issues in schools.

That was signed by the federation representative of Dover Heights High School. That was not the first time that teachers at Dover Heights had raised the issue. I spoke in this House on 6 November on this issue specifically and referred to their resolution of 29 October. They had also raised concerns previously on 13 March and 18 September this year. The reality is that this issue is not that difficult. It should not be that difficult for the Government. It is just merit selection for the principal, deputy principal and teachers at this school. Merit selection is something that the new Minister for Education and Training should be embracing as quickly as possible.

The Teachers Federation has a major problem—I have made reference to this in the past—in that it is losing touch with its constituency. It really has become a left-wing icon of the union movement. I suggest it is totally out of touch with the community and the teachers, who are members of the federation. This is a great opportunity for the new Minister to step into this mess—an issue that has been raised all this year—and side with the parents, teachers and community and decide the appointment of principal, deputy principal and teachers on merit.

### **BROTHER ROGER BURKE RETIREMENT**

**Mrs PERRY** (Auburn) [1.20 p.m.]: I draw the attention of the House to the imminent retirement of a truly humble and inspirational educator, Brother Roger Burke. On 18 December 2001 Brother Roger will end 45 years of teaching in Marist schools across New South Wales, the Australian Capital Territory, Queensland and the United States of America. Brother Roger has served 24 years as an educational leader and has been the principal of six schools—Marcellin College in Randwick, St Francis Xavier College in Hamilton, Chanel College in Gladstone, St Augustine's College in Cairns, Marist College in Pearce and Mount Carmel High School in Varroville. I acknowledge that the Marist Brothers have been an inspiration in education in the Auburn area for many years. Raymond Vincent Burke, who took the religious name "Roger", was born and educated in Brisbane. At the age of 17 years he left his family and embarked on a vocation of prayer, service, dedication and education.

A talented cricketer—he scored a century in Sydney grade cricket at Kogarah Oval—and an accomplished footballer, Roger left most of these talents to take up the challenge of being a Marist Brother, a lifetime vocation of service to the education and faith formation of the youth of New South Wales and Australia. Four noble qualities sum up the person I am honouring today: innovator, educationalist, community builder and faith person. Rarely has a student who has had contact with Brother Roger not had some aspect of his or her life altered or redirected. Brother Roger was always available for his students. Inspired by the founder of Marist Brothers Marcellin Champagnat, Brother Roger the educationalist sought ideas and teaching practices to meet the diverse needs of his students. The school was the vehicle of his apostolic thrust. Brother Roger promoted a strong Catholic faith education system that had an excellent secular curriculum and had input into the formation of syllabus documentation for ancient history in New South Wales.

Brother Roger attempted to fashion good teachers who would be capable of directing the development of the young students in their care. He wanted teachers to keep reflecting on their profession, and to maintain a spirit that quested improvements in their methods. He was a great role model of teaching technique and student management. The cornerstone of his educational philosophy was strong collaboration with parents. He always sought parental support and commitment in the schools he led. Brother Roger is an innovator, a Marist quality that extends back nearly 200 years when the religious order was founded. The Marist Brothers were founded in France during the French Revolution as a result of a need to educate the struggling rural communities in that country. They came to Australia in 1872 to help educate the emerging catholic community here. Being an innovator in the educational sense means using the limited resources available to develop modern educational practices and learning centres.

In this sense also Roger came to the forefront as a leader, fashioning curricula to suit the academic needs of his students, updating educational facilities and buildings, and working with experts to professionally develop the skills of his teaching staff. Almost every school at which Brother Roger was principal would have a visible sign of his touch and innovation. The insight and forethought of Brother Roger can be attested to in his great respect for the community in which he lived. The community Brother Roger referred to was the Catholic faith community that supported his school and the wider community. He devoted a large amount of his time to being a member of the local Catholic parish pastoral council, assisting with faith education of adults as well as addressing youth social justice issues and concerns in the community.

He used his skill as a writer to produce local histories of the Catholic community he belonged to, as well as one of a few English translations on a Marist patron saint, St Peter Chanel. The wider community benefited from his unselfish enthusiasm to improve the plight of the less fortunate. He chaired a committee that raised funds for the provision of a hydrotherapy pool. He has been a member-administrator of a number of cricket and rugby league clubs. He is a cricket umpire of note—only ill-health has restricted his involvement. Despite having limited spare time, Brother Roger volunteered to be a driver during the Sydney Olympics.

The final quality of Brother Roger I wish to refer to is his great faith. In an age of uncertainty and changing moral values, Brother Roger has stood out as a model of consistency and faith. This devotion to the Catholic faith has inspired many young adults to hold true and firm to their faith. His faith is so strong that he is able to challenge his students to not abandon their faith but search out the true meaning of it. The communities of Lismore, Randwick, Hamilton, Hunters Hill, Kogarah, Maitland, Canberra, Varroville and Campbelltown have been enriched by the efforts and dedication of Brother Roger Burke. His lifetime passion for the education of the youth of this State over the past 45 years has left a great legacy.

New South Wales cannot express enough thanks to this man for his contribution. There is an indebtedness to his family for their support of him and his vocation. There is worthy mention of the Marist

Brothers who had the foresight to promote the talents of Brother Roger. The State is grateful to the Marist Brothers for over 125 years of service to the education of youth. One of the personal mottoes of Brother Roger which he implanted in his students was "Good Christians make good citizens". Many good citizens in this State owe a lot to the inspiration of Brother Roger Burke. Well done, Brother. Enjoy your retirement and congratulations on a truly honourable career as a teacher, principal and mentor.

**Mr FACE** (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [1.25 p.m.]: I congratulate the honourable member for Auburn on bringing to the attention of the House this truly remarkable person, Brother Roger Burke. He has certainly been an inspiration to many people, and he has made a significant contribution to education in this State and to the people he has had under his guidance. Brother Roger Burke was the principal of St Francis Xavier College at Hamilton, a former Marist school. One of my daughters was educated at that school. Brother Roger Burke joined the school at a time when the whole of the diocese of Maitland and Newcastle was going through a reorganisation of educational facilities. Today the school, which is now a senior school, is the centrepiece of education. Brother Roger Burke certainly had a lot to do with that. He played a huge role in moulding and guiding young people, and in the formation of their characters to become good citizens.

I agree with the honourable member for Auburn that the communities of Lismore, Randwick, Hamilton, Hunters Hill, Kogarah, Maitland—where Brother Roger Burke served at St Peter's—Canberra, Varroville and Campbelltown have been enriched by his efforts and dedication during the 45 years he has been in the Marist order. These days there are not many Marist Brothers, compared with the number in the order when I was a young person. They are people of tremendous dedication. The Marist Brothers have educated in areas where others were not prepared to go, such as certain parts of Australia and the emerging island nations. I have had a personal relationship with a Marist Brother whom I grew up with, and I am aware of his dedication to the order. On behalf of the people of the Hunter I thank Brother Roger Burke for his contribution to that great college, St Francis Xavier College in Hamilton.

#### KEMPSEY TRUCKING INDUSTRY

**Mr STONER** (Oxley) [1.27 p.m.]: Kempsey is the centre of a strong road transport industry, being located midway between Sydney and Brisbane on the Pacific Highway. Many of my constituents are truckies. The many truckies I have met and spoken to are good people and solid citizens. Their local trucking association contributes to the community by way of local charities and holds an annual trucking show in the main street of Kempsey. The trucking industry is extremely important to rural areas such as those on the North Coast. It is a perfect example of a decentralised industry: it creates jobs in many country towns and ensures that money coming in from metropolitan areas remains in regional economies.

This is an industry that the Government should assist, whilst providing appropriate regulation to ensure the safety of drivers and other road users. However, sadly, this helpful approach appears to be lacking under the current regime. I recently spoke with an operator who runs a car-carrying business. He has found the going somewhat difficult over recent years, mainly due to the increasing costs of operation, particularly registration, compulsory third party insurance and vehicle insurance charges. I might add that a significant proportion of insurance costs comprises State Government taxes, including the goods and services tax and stamp duty—which is a tax on a tax because it is imposed on the post-GST price.

The operator I have referred to now has a potentially more serious problem caused by the heavy-handed approach of Roads and Traffic Authority [RTA] inspectors. He spends a lot of time and money training his drivers and keeping up with changing regulations. However, he is losing drivers because they are being repeatedly fined very heavily for minor technical breaches. For example, a truck was recently inspected south of Coffs Harbour and was found to have marginally breached the height regulations. The driver was fined \$700 when the solution would have been to simply move around a couple of cars on his load. This driver has subsequently left the industry because he has been responsible not only for this fine but for prior fines. The driver has been trained and has had a lot of money invested in him, and he has now moved on to other things.

The operator had to drive to the inspection area—a 2½-hour round trip from Kempsey—to try to work out the situation and to physically move around the cars. Why could not the RTA inspectors have simply provided helpful advice to the driver and helped him on his way? What has happened to the service ethic in the public service? Perhaps service has slipped off the agenda and been replaced with revenue raising. This heavy-handed, fine-focused approach is by no means an isolated incident to this or other drivers to whom I have spoken. Feedback I have received with respect to inspection points around the State suggests that there is a deliberate management policy in the RTA of fine first and help later.

These drivers are, by and large, honest, hardworking battlers who are happy to comply with regulations and undergo inspections. They deserve the support of the Government rather than an approach that is driving many of them to the wall. I call on the Minister for Transport, and Minister for Roads to carefully consider these issues with a view to changing the culture in the RTA and reintroducing a service ethic to the public service. We must support these drivers and their industry, which is extremely important to rural and regional New South Wales.

**Mr FACE** (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [1.32 p.m.]: I will refer the remarks of the honourable member for Oxley to the Minister for Transport, and Minister for Roads. I am concerned about his reference to "technical breaches" or "small breaches". Anything that impinges on heavy vehicles in this State should be dealt with very seriously. I spent most of my service in the Police Service as a special traffic patroller. Therefore, I know that there is a minor culture in the heavy vehicle industry that believes it is a sport to try to get away with things. The honourable member for Oxley referred to a section of the Pacific Highway on the North Coast that has one of the worst fatality rates.

I will ask the Minister to ask one of his officers to contact the honourable member to get the details of where these Roads and Traffic Authority officers are being seen to be overzealous when, effectively, they are carrying out their jobs of policing heavy vehicles. If those vehicles do not comply with the regulations there could be serious ramifications, especially on the North Coast of New South Wales. I do not suggest that what the honourable member said is wrong but, in the interests of public safety, he has a responsibility to advise the Minister for Transport of the precise details of the incidents in which officers of the RTA have been overzealous.

#### **HONOURABLE MEMBER FOR KOGARAH CHRISTMAS CARD COMPETITION**

**Miss BURTON** (Kogarah) [1.34 p.m.]: I draw to the attention of the House my Christmas card competition. Every year members of Parliament select a design for the front of their Christmas cards and then have them printed. Every year since I have been elected I have run a competition for year 3 students in all schools in my electorate for the design of the front of my Christmas card. I do that so that the children get an opportunity to express what Christmas means to them, and also to help to celebrate that time of year. This year I received more than 300 entries, from which it was difficult to choose a winner. We chose nine finalists and a winner. They will have morning tea with the Premier, the Minister for Education and Training, and the Minister for Gaming and Racing next Tuesday afternoon in Parliament House. They will be congratulated and receive their certificates. The winning student will receive a \$50 voucher for a book of his or her choice. The winning school will receive a \$200 book voucher for its library.

The competition has been a fantastic success during the past couple of years, and this year was no exception. The finalists from the 300 entrants in year 3 were: Nathan Martsoukos and Joanne Klados from Blakehurst Public School; Rachael Fitzsimmons from St Marys Star of the Sea; Koro Ruru and Abdul Rababi from Carlton Public School; Hilary Qin and Alexandra Duff from Connells Point Public School; and Korinna Gouros and Lachlan Neal from Baldface Public School. I congratulate all the students who participated in the competition. I also thank the teachers in all the schools in my electorate, with whom I have enjoyed a good relationship during the past 2½ years. Their dedication to education in my local area is amazing.

Some wonderful things are going on in those schools, particularly with respect to capital works, from which all students will benefit greatly. I also mention the high school students in my electorate. Once again, they have done well in this year's Higher School Certificate. I express my appreciation to the students from the Kogarah High School debating team, who were runners up in the recent Government debating competition. They had afternoon tea in Parliament House yesterday. A special meeting with the Premier meant a lot to them. They were all women—I mean no disrespect to the boys. However, as a young female member of Parliament I was honoured to see a group of young women from my local area who had achieved so much. Once again, I congratulate all the students who participated in the Christmas card competition. I look forward to the entries next year.

**Mr FACE** (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [1.38 p.m.]: I congratulate the honourable member for Kogarah on her Christmas card competition. I was in the Chamber last year when she informed the House about it. Not all the students who participate in the competition come from Christian backgrounds. I have been to her ethnically diverse electorate on numerous occasions, and she manages it very well. If ever there were a time to have an understanding of other races it is now, not only because of the 11 September events but because of the worldwide tensions.

The Christmas card competition is a good idea. Christmas means something quite different to Christians than it does to people from other cultures. However, even though people may not follow the Christian faith most recognise the spirit of Christmas and the holiday period in their own way. That is why the competition is so innovative. I look forward to meeting the children next Tuesday at the afternoon tea. I congratulate the honourable member for Kogarah on giving young people in her electorate an opportunity to participate in this competition.

### WINJI JIMMI BAY ELECTRICITY SUPPLY

**Mr BROGDEN** (Pittwater) [1.39 p.m.]: For the past two years I have consulted with local residents about the overhead cabling across Winji Jimmi Bay in Mona Vale. The bay is small, and for some time the electricity supply has been run over the water. However, a series of meetings with local residents and Mr Keith Newland of EnergyAustralia considered three options for improving electricity provision. The first option involved lifting the existing overhead cable, acknowledging that boats sailing through the Pittwater area increasingly have tall masts. This would provide better clearance for yachts that sail into the bay. The second option involved undergrounding the cable, which would remove concerns about boat masts hitting the cable, shorting it out and affecting the electricity supply. The third option was to divert the electricity supply around the bay overground. This would require the erection of a series of new poles to carry the higher voltage wires above the existing wires.

It will not surprise honourable members to learn that Energy Australia favoured the cheapest of the three options: boosting the height of the existing cabling across Winji Jimmi Bay. This did not satisfy local residents, and I also expressed my concern about the proposal. The option to take the power supply overground around the bay is expensive and would require an enormous amount of tree lopping, which would upset local residents. It would also create an ongoing maintenance concern for Energy Australia. The undergrounding option was also considered to be too expensive, so Energy Australia opted to raise the height of the existing wire. Despite community concerns, the matter was effectively put to bed. Although there were no new capital works, my attention was again drawn to this matter when a boat hit the wire at 6.30 p.m. on Sunday 28 October. Damage worth in excess of \$15,000 was caused to the boat and a person who was forced to jump off the boat burnt his hand when he grasped the boat railing.

Investigations into the accident—not the least of which are insurance investigations—are continuing. However, it is clear that there is a problem with the warning signs at the entrance to the bay. One sign that indicates the height of electricity cabling was covered with weeds and bamboo and was not visible to the boat owner and operator. The lack of ongoing maintenance of those warning signs is a concern as it could put people's lives and the local community's electricity supply at risk. The most dangerous scenario would be if a boat mast brought down the wire and it fell into the water. I ask the Minister to intervene in this matter. I thank EnergyAustralia for working closely with me on this matter, but I believe it has allowed budgetary constraints to override legitimate community safety issues.

Boat masts will continue to grow higher as technology advances. Therefore we will have to revisit this issue perhaps every five or 10 years and ultimately raise the wire to a ridiculous height. If the warning signs are covered by vegetation, those who motor into the bay and who are unfamiliar with the area will be at risk. Underground cabling is clearly the most sensible option, and I ask EnergyAustralia and the Minister to consider it seriously. Undergrounding the cables may be more expensive, but there is no doubt that it would offer lasting benefits for the community in terms of safety and electricity provision.

### LAKE MACQUARIE COASTAL DEVELOPMENT

**Mr ORKOPOULOS** (Swansea) [1.44 p.m.]: I am concerned about pressure to allow development along Lake Macquarie's coastline, particularly at Fencott Drive, Jewells, in my electorate. I welcome this week's historic announcement by the Premier and my colleague the Minister Assisting the Premier on Hunter Development, Richard Face, of the handover to the New South Wales Government by BHP Billiton of 510 hectares of precious coastal land known as the Belmont wetlands. These wetlands will now be in public hands and this environmentally sensitive area will no longer be threatened by housing developments. This is an excellent result that reflects the Carr Labor Government's commitment to coastal protection.

This week the *Newcastle Herald* reported extensively that big developers were "declaring war" on Lake Macquarie City Council over the draft local environmental plan that is currently on public exhibition. While I accept that there may be some legitimate issues with respect to rezoning proposals, they were lumped together

with some of the worst development examples I have seen. I previously expressed my concern to the House about a proposal by Fencott Drive Pty Ltd to construct an aged accommodation village on land ill suited to that purpose. A further application by the same developer for a caravan park in proximity to the proposed aged accommodation village has been lodged with Lake Macquarie City Council. I am totally opposed to these two developments, which are entirely inappropriate for the site.

The site, which extends from the Pacific Highway at Jewells, slopes down to the Jewells wetland and is covered by extensive native bushland, including swamp mahogany, coastal tea-tree, eucalypt forests and other wetland vegetation. Native fauna, such as wallum froglets, squirrel gliders and other species, also live in the area. The development of these two sites would require the extensive clearing of vegetation, leading to disastrous impacts on native flora and fauna and the hydrology of the wetlands. The developer is taking Lake Macquarie City Council to the Land and Environment Court for the deemed refusal of both proposals.

At the same time he is involved in discussions with the council and is using the caravan park proposal as a lever to force the city council to approve the aged accommodation development. The developer's loud complaints against Lake Macquarie City Council, which were reported in the *Newcastle Herald*, are diminished by his bullyboy tactics in this instance. He employed similar tactics several years ago with respect to Green Point, and his current tactics must be exposed for what they are. Lake Macquarie City Council has raised serious environmental and other objections to the two proposals. The community opposes them and I have also expressed my opposition. I call on the Minister for Planning to examine closely the disastrous environmental impacts of the proposals in the context of relevant planning legislation.

**Mr FACE** (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [1.49 p.m.]: The honourable member for Swansea has raised a valid point regarding the difficult position of Lake Macquarie City Council and the local community as a consequence of certain events. I am seriously concerned about the misuse of the Land and Environment Court. We must reassess its role as some people are doing the wrong thing by providing minimal information and then taking the matter to that court when they do not get their own way, thereby usurping the authority and the will of the local council and community. I know Mr McCloy and his family quite well from my building industry days, and I certainly do not bear them any ill will. However, I was not pleased when one of his people telephoned my office and tried to bludgeon me into seeing him in my capacity as Minister Assisting the Premier on Hunter Development. When he was correctly directed to see the honourable member for Swansea, he retorted, "Doesn't he want jobs?" and then proceeded to castigate my staff and me.

I do not think Mr McCloy would agree with that tactic. I resent it. The decision by the Government this week on Belmont wetlands is of historic significance. After 25 years of work on my part it brings together the Awabakal Nature Reserve and Glenrock State Recreation Area, which was a massive mixture of land holdings that we brought together for recreation, and it provides coastal protection effectively from the Swansea channel to Merewether. In the light of that decision the Minister for Planning needs to look at the whole area, because decisions are about to be made that could impact on it. I am very concerned about it. I will refer my comments and those of the honourable member for Swansea to the Minister.

### FERAL ANIMAL CONTROL

**Mr WEBB** (Monaro) [1.51 p.m.]: I again highlight to the House and to the Government the continuing problem with feral animals, particularly wild dogs, preying on farms and the impact they cause. I wish to read from a letter that formed part of a submission to the feral animal inquiry from people in the Bemboka area of the Bega Valley, in the electorate of Monaro. These people are happy to put their case but it appears to them that nothing is being done. The letter reads:

The problems of feral animals predating on farms causes many and far reaching problems.

There is the time and cost of running an eradication program. There is a loss of income, the loss of value of the stock being killed and the subsequent loss of production. The letter goes on:

The wild dogs killed in excess of 1000 lambs in ... 12 months.

In a 12-month period these people lost 1,000 grown sheep valued at an estimated \$125,000. The stress on the family was unbelievable. They said:

[the National Parks and Wildlife Service] were officious. They offered us nothing except aggravation. Our four children were all little at this stage and the effect on them ... can still be seen today.

That is, a decade later. That is a major social cost. At the time, a trapper came to live with them. In six weeks he caught six dogs and in the following six months he caught another six dogs. He had not seen a dog problem like that in a very long time. Today, in many areas of Monaro, including the Bega Valley, areas such as Paupong and Numbla Vale on the Snowy Plain around the Kosciuszko area, at Delegate on the Victorian border, in the Braidwood area, at Krawarree, Snowball and in the Gundillion areas, as well as quite a number of other areas throughout Monaro and in the Brindabella region, the problem of feral dogs continues.

When baiting was carried out in the 1970s and early 1980s there was no problem. Wild dogs were under control and everybody was happy. Wild dogs also kill calves, and cases have been cited in Victoria. That leaves farmers with no production opportunities. The pastures protection board in the Bega Valley has told these people that if there are no kills in 2001, there are no baits, so it is impossible to take preventative control measures. Yet it is recognised that that is what one must do. There has to be an ongoing control program. It has been firmly established that aerial baiting programs on private property and within parks are the most successful way to eradicate dogs, particularly clever dogs.

It has been acknowledged by people involved with the preservation of the dingo that clever dogs find trapping and mound baiting, scratch them out, show them to their pups, and steer clear of them. The dogs can only be caught with a broad-based aerial baiting program. It is interesting to hear that feral dogs and cats may be classed as pest animals, which will enable them to be shot. Feral dogs and cats cause major problems, not only to farm production animals but also to native species, and that is at an even greater cost to the native species and native habitat.

The ability of landowners to use licensed, registered shooters who have done a course to learn to identify the kinds of animals they are dealing with, is a must, regardless of objections from the RSPCA, which obviously has not seen a sheep that has been mauled and is wandering around a paddock with pieces missing and with its entrails hanging out. That is abominable cruelty. I support the latest program and I urge the Government to continue to work as hard as it can to fund control measures.

#### **SUPERCOAT PET FOOD MANUFACTURER**

**Mr TORBAY** (Northern Tablelands) [1.56 p.m.]: Today I am pleased to comment about Supercoat, a pet food manufacturer at Inverell, in the Northern Tablelands, which has been a model for industry relocation to the country. Impediments to the relocation of business and industry from metropolitan centres to inland country regions can be more substantial in concept than in reality. The majority of companies that have made the move do not see it as a disadvantage, either to their operations or to their economic returns, but we hear little about them. It is somewhat disheartening that we receive far more information about failures and difficulties than about successes, and this can give a very wrong perspective.

I take the opportunity today to comment positively about Supercoat and about the success story of a relatively small amount of State Government assistance that provided the incentive to the growth of this company, which successfully relocated from Sydney to Inverell. Inverell is a hard-working community with a population of 10,000 on the western edge of the Northern Tablelands, surrounded by rich grazing and farming country as well as by sapphire and other mining activities. In the mid-1990s the pet food manufacturer Greens Foods bought an Inverell company, Contract Extrusions, and relocated its Supercoat manufacturing and packing operation to Inverell. I know the Greens family very well. They are a hard-working group of people who have a number of limbs to their business. Greens Foods, set up in 1978 by Howard Green, is a \$200 million publicly-listed company that manufactures pet food, pasta, baking mixes, peanut butter and breakfast cereals. It employs 500 staff nationwide and has plants in Sydney, Leeton and Perth as well as Inverell.

The principal reason for the company's pet food division moving to Inverell was to locate it close to the source of the raw products it uses in manufacturing. Initially it employed between 20 and 30 staff. According to the Chief Executive Officer of Greens Foods, Mr Doug Green, there were some initial concerns about moving a manufacturing plant so far from the Sydney head office and about higher freight costs to supply its strong New South Wales and Victorian market. However, he now readily admits that the pluses outweigh the minuses, with the lower cost of land enabling the company to construct a purpose-built facility which is more efficient and productive. Mr Green has also emphasised the role of the loyal local staff the company recruited as a significant factor in maintaining high-quality standards. It found the required level of skills in local people in the Inverell district and undertook their further training and upskilling.

According to Mr Green the decision to relocate has been a good one, and it got even better when the company was successful in gaining a \$200,000 grant from the Department of State and Regional Development

to assist it to expand its operations. This expansion also had the support of the Inverell Shire Council. The *Inverell Times* of Friday 23 November carried the headline "SUPERCOAT PRODUCT EXPANSION? More positive news likely", so there could be even better news in the not too distant future. The expanded Supercoat operation in Inverell now employs a staff of 70. It has an annual turnover of \$50 million and manufactures 40,000 tonnes of product each year. The company is extremely happy with its operation and the quality of its products and it is now the second-largest employer in Inverell. Recently I visited the plant with the Federal member for New England, Tony Windsor. I was very impressed with the company's achievements. This is only one of the many success stories of decentralisation to the inland and I believe that with encouragement from all levels of government many more companies would consider relocating.

### SCHOOL BUS PASSES

**Mr MERTON** (Baulkham Hills) [2.01 p.m.]: I raise an issue on behalf of one of my constituents, Mr Shane Burke, of Castle Hill, whose daughter, Rochelle, has been denied a bus pass to travel from her home to Castle Hill High School. Mr Burke was informed that for Rochelle to be eligible for the pass she must reside more than two kilometres radial distance or 2.9 kilometres walking distance from the school. Mr Burke has advised that the distance from the front driveway of his home to both the rear and front gates of the school is between 2.8 and 2.9 kilometres, and declared that the walk is both unsafe and very tiring for a young student. He has emphasised the fact that Rochelle now is required to walk 5.8 kilometres each day to and from school. This gentleman went so far as to conduct his own investigations and has declared that no child walks anywhere near the distance to the school that his daughter does.

He has informed me that Rochelle waits at the same bus stop as other children who live in the next street, all of whom hold bus passes. Mr Burke believes it is completely unfair and basically fundamentally wrong that other students who travel to school from the same bus stop as Rochelle have the benefit of the fare subsidy, but his daughter does not. In the last few years traffic in the area has increased dramatically due to the huge increase of medium-density housing that has engulfed the Baulkham Hills and Castle Hill areas. Traffic flow between 8.00 a.m. and 9.00 a.m. each morning and 3.00 p.m. and 4.00 p.m. each afternoon on the walking route to and from the school is extremely dangerous and heavy with both cars and trucks in particular areas.

The family is worried that Rochelle has to cross such a large number of busy streets, first at the Excelsior Avenue roundabout, which has a constant flow of cars and has no pedestrian crossing; then Marie Street, which is extremely busy with motor vehicles and buses delivering children to Gilroy College; followed by busy Kerrs Road, Parsonage Road, Cecil Avenue and Showground Road. All of these streets are without pedestrian crossings and many vehicles utilise this route to avoid using Old Northern Road. The last street Rochelle has to cross is Castle Street, which leads to Castle Hill RSL Club and the bowling club. On 13 September I made representations on Mr Burke's behalf to the Minister for Transport with the request that he, Mr Burke, take part in an investigation to show that the route Rochelle is forced to walk to school is indeed unsafe.

I might add that Mr Burke has made this request on many occasions but has been ignored. In fact, his request to be able to participate in the investigation has been specifically ignored; in fact, one could say it has been denied because there has been no follow-up from the department. I forwarded to the Minister a copy of a newspaper article in which local residents expressed concerns about the traffic on part of the route that Rochelle is forced to walk to school. A number of accidents had occurred in that area and they feared that it was only a matter of time before a fatality occurred. Surely the safety of children should be to the fore when consideration is given to the allocation of bus passes.

The time for nitpicking and penny-pinching is over. Rochelle Burke has been denied a subsidised bus pass to travel from her home to Castle Hill High School, which is a distance of 2.8 kilometres to the rear gate and 2.9 kilometres to the front gate. In these circumstances the rule on issuing subsidised bus passes should be interpreted fairly, and the intention and spirit of the scheme should be examined. This matter requires a review. I ask the Minister to look into the matter to see what can be done to help Mr Shane Burke and his daughter, Rochelle.

### PRESTONS PUBLIC SCHOOL SEVENTY-FIFTH BIRTHDAY

**Mr LYNCH** (Liverpool) [2.06 p.m.]: Prestons Public School is celebrating its seventy-fifth birthday this year. Prestons school was located in the Liverpool electorate until the 1999 redistribution, and many members of the school community still reside within the electorate of Liverpool. The celebrations commenced

with a bush bash on 10 November at Gledswood Winery and Homestead. They featured also a carnivale event on the afternoon of Friday 16 November. I was fortunate to be able to attend the carnivale celebration at the conclusion of that day's parliamentary sitting.

The master of ceremonies, deputy principal Selwyn Williams, was a master of ceremonies extraordinaire. I have known Selwyn for some time, and his enthusiasm is always well and truly on display. The carnivale featured a wide range of performances by students—from 5-year-olds singing pop songs to Indochinese dancing by students, most of whom were not of Indochinese origin. There was also a plethora of stalls staffed by enthusiastic volunteers who sold everything from seedlings to popcorn. There were face-painting and hair-streaking stalls. A multicultural food fair was also held as part of the festivities.

The principal, Jenny Carter, showed me the site for further school buildings—a construction certainly justified given the school's expanding size. As with many schools in south-west Sydney, there has been a rapid growth in the number of students at this school because of surrounding residential development. This, of course, has its own challenges. The school area includes older settled areas and brand new housing estates. The housing mix includes public and private rental homes and privately owned housing. Many students come from families who have lived in the Liverpool region for decades. Others are from families that have just moved to the area, having bought their first home in the area. Ms Carter mentioned that families with children at the school had recently moved from areas as diverse as Sutherland, Maroubra and Arncliffe as well as from other suburbs of Liverpool.

There is also, as with most schools in south-west Sydney, a tremendous cultural diversity. Many families have chosen to make Australia their home, having travelled from almost all corners of the globe. Schools like Prestons operate in comparative harmony and tolerance with the broadest diversity imaginable. It is an extraordinary achievement that this happens with minimum fuss and with great effect. Some 50 different languages are spoken by the students. The school has obviously changed dramatically over its 75-year history. One of the most impressive aspects of its birthday celebrations is the school's determination not to let that history escape. The events featured one ex-student who started at the school in 1931 and whose father was the first principal, and drew attention to some of the Liverpool identities who have attended the school, such as Jack and Bob Ingham of Ingham Chickens.

On the day of the carnivale the school library featured a fascinating historical display with photographs and memorabilia stemming from the school's earliest days. They also produced and sold a history of the school entitled, "From Skateboards to the Internet". It was subtitled, appropriately, "Celebrating 75 years of Public Education". The school was opened on 5 October 1926 with 36 children. It now has 781 students and well over 800 are expected in 2002. The official opening took place on 13 November 1926, and was performed by Mr J. McGirr, MLA, who was then the member for Cumberland and subsequently became member for Bankstown and Liverpool, and ultimately Premier. Efforts to have a school opened at Prestons began in 1912. Departmental officials at that time thought existing schools at Glenfield and Hoxton Park were only too adequate.

From the register of students who have attended the school over many years, many familiar names stand out—in particular names now used for streets, such as Alcock, Medley and de Meyrick. A fascinating series of articles in the booklet by various students shed a real light on the history of the school. Many of those stories highlight the rural nature of the area that continued largely until the 1970s, when development first commenced. Some of those delightful stories talk about no running water, using a log fire to keep the children warm, no electricity, and the use of ink wells. It refers also to children attending school without shoes during the Depression. It was interesting to note also the foreword to the history by Richard Booth, the District Superintendent of Liverpool schools. Mr Booth is one of the most impressive public servants whom I have had the pleasure to deal with over the years, and I cannot sing his praises highly enough. In his foreword he said:

It is with pleasure that I write to acknowledge and contribute to the celebration of seventy five years of public education for the Prestons community.

Beliefs and values that underpin education have moved from a belief that learning ability is largely inherited and disadvantage is insurmountable to a belief that improvement is always possible and that schools can make a difference.

Our schools strive to give young people the skills, knowledge, values and understandings which will build a better Australia for us all.

### **TUMBARUMBA NATURAL GAS SUPPLY**

**Mr MAGUIRE** (Wagga Wagga) [2.11 p.m.]: Earlier this year I wrote to what was then known as Great Southern Energy to inquire about the possibility of connecting Tumbarumba to the natural gas system. It

commissioned Agility Management to report on that possibility. Since then, of course, Great Southern Energy has changed its name to Country Energy. Recently I received correspondence which stated that the demand in Tumbarumba for natural gas would not be sufficient to provide for a pipeline connecting to the Visy mill, where the natural gas pipeline terminates, and to Tumbarumba through Batlow. The statistics that we put forward in our quest for natural gas reflected that Tumbarumba would use some 300,000 litres of natural gas each year.

With the proposed expansion of existing businesses and the attraction of businesses to the area as a result of the natural gas pipeline, that consumption would escalate to 1,356,300 litres. Several businesses have expressed an interest in locating their offices in Tumbarumba if this natural gas pipeline is established. Today I spoke to a plant manager who indicated that at the moment his drying plant is using 30,000 to 40,000 litres of gas each month. He told me quite clearly that if a natural gas pipeline were established, a drying plant would be required to value-add to the already enormous timber industry that exists in Tumbarumba. A reading of the report which was commissioned by Country Energy establishes that an additional \$5 million would be required to establish this gas pipeline, and that the return on capital would be only 2.9 per cent.

I am aware that that return is low, but I request the Minister for Energy to revisit this proposal, to establish ways in which we can work together with the Federal Government, the State Government and regional and local councils, and determine ways of sharing costs to install this gas pipeline—whether it be through a work-for-the-dole program or by accessing funding from various Federal programs. One such program is the Regional Solutions Program. I am sure that the Department of Regional Development and other departments can work together to achieve an outcome. The installation of a gas pipeline means a lot for my community of Tumbarumba.

However, one must ask which comes first, the chicken or the egg? In order for governments to invest they have to be sure that there will be a user at the end of the service—in this case, someone who will consume the natural gas. In order for that to happen, consumers need a gas pipeline. We must break this never-ending circle if we want to achieve any regional development. If we are serious about developing small country towns such as Tumbarumba, which has an enormous natural resource in its timber, governments must establish ways in which to invest in infrastructure. That infrastructure might produce a slightly lower return but, costed over a number of years, it will add benefit to the community and value to the State.

I take as an example the amount of gas that would be consumed by the drying plant to which I referred earlier, and the number of jobs that would be created as a result. All those things would do the community of Tumbarumba the world of good and it would assist industries that are expanding in that area. Laurel Hill, which has guaranteed timber resources, must connect to this natural gas system. The schools at Tumbarumba need this natural gas system. Rotary units, the hospital, the correctional centre and householders will all consume natural gas. I urge the Minister and the Government to make a commitment to work towards bringing natural gas to Tumbarumba. [*Time expired.*]

#### **SYDNEY WOODTURNERS GUILD ARTS AND CRAFT SHOW**

**Mr COLLIER** (Miranda) [2.16 p.m.]: As the International Year of Volunteers draws to a close it is important to reflect on the unselfish and valuable contribution that these tireless individuals and groups make to the community. One such group in my community are the members of the southern region of the Sydney Woodturners Guild. Honourable members will recall my previous statement about wood-turners in the House on 6 April 2000. The wood-turners meet at Oyster Bay in a hall which they restored at their own expense and which is affectionately known as the Cubby House.

They have more than 200 members and they hold regular monthly meetings at which they exchange ideas and hone their skills in the ancient craft. Their motto—By hand and eye—reflects the wonderful wooden articles that they produce with their lathes, their skills and their experience. But there is another motto to which members of the Cubby House adhere most firmly: that is, charity begins at home; an old motto but one to which these wood-turners—these outstanding and unselfish volunteers—have given a most tangible expression for four consecutive years.

I first met the wood-turners in December 1988 at the opening of the accident and emergency ward at Sutherland hospital. They had raised \$6,000 for the children's ward. In 1999 they raised \$9,000 for the Rural Fire Service, and in the year 2000 they raised \$15,000 for the State Emergency Service. This year, over the weekend of 27 and 28 October, the wood-turners held their fourth consecutive arts and craft show at the Cubby House, with all funds raised being donated to the Assistance Dogs for Independence. The show included the sale

of members' work, turning demonstrations and an auction of donated craft items, as well as raffles. The raffle items included a beautiful hand-crafted rocking horse, a games table and a coffee table. I was delighted to attend that show, which began on the evening of Friday 26 October. Anyone who knows the area would be aware of the huge effort put in by the wood-turners in setting up the show. I quote from the wood-turners newsletter, which states:

Friday morning in the reserve around the Cubby House was a vast grass paddock. By 8pm that evening the official opening of the IVth Arts and crafts show was underway in one of the four marquees and tents that had sprung up during the day like wild mushrooms. Inside the Cubby House the main hall was overflowing with a variety of arts and crafts.

The convenor, Mr Jim Govan, welcomed visitors and guests. The task of officially opening the arts and craft show was undertaken by Mr Andrew Biggs, chief executive officer of the Assistance Dogs for Independence. He was accompanied by Oscar, one of the assistance dogs who stole the show. Oscar was the star of the show and is now an honorary member of the Cubby House. The aim of the Assistance Dogs for Independence, which is a worthy cause, is to assist severely disabled persons to cope better with day-to-day life by helping them in practical ways, such as opening doors and retrieving dropped items, enhancing the quality of life through pet facilitation, therapy and interaction, performing interactive tasks and giving—as many dogs do—unconditional love.

On that day the work of the dogs was demonstrated by Tanya and her dog, Bonnie. Louise Sauvage, the Paralympic gold medallist, signed autographs, participated in a question and answer session and talked about her life and sport. The wood-turners just keep getting better and better. This year the wood-turners raised \$20,500 for the Assistance Dogs for Independence. I sincerely congratulate the wood-turners, in particular Mr Clive Cairns and his committee, on making the fourth wood-turners arts and craft show such an outstanding success. Guild members often ask Clive how he and his team keep producing better and better results year in and year out. Clive's answer is simple. I quote from the "Cubby House News" which reflects accurately his comments:

You don't have to ask. Everyone at the Cubby House seems to instinctively know what needs to be done and just pitches in. I have never experienced the willingness to be involved in any other club I have belonged to as I do here at the Cubby House. It drives you to give of your best.

In May 2000 the wood-turners received the Premier's award for community service. I was pleased to nominate them. But they have not rested on their laurels; they have gone on to give more and more. They give of themselves, their time and their efforts. These people, the members of the wood-turners guild, are volunteers in every sense of the word. Needless to say, we in the shire are proud of them.

### **PRESCHOOLS FUNDING**

**Mr ARMSTRONG** (Lachlan) [2.21 p.m.]: As the year draws to an end one thing on the minds of many young parents is their children, many of whom will go to school for the first time next year, with two-year-olds and so on going off to preschool. But there is a problem. It is not new—it has been around for many years—but it is getting worse rather than better. Preschooling is recognised as an important part, not of babysitting, but of the educational process. As children seem to mature far more quickly than they did in past generations, the need no longer is to satisfy parents but very much to ensure that children have a top-class foundation, provided by preschooling, to enter the school system when they are about five or six years of age.

The fundamental problem is that funding for preschools across New South Wales is inadequate. I suspect that is not news to any member of this House; we have heard this story many times. Governments have argued that the Commonwealth has a responsibility in this matter, and the issue has been flicked backwards and forwards between the State and the Commonwealth. The bottom line is that that process does not make much difference. At the end of the day, the State Government has primary responsibility to ensure that New South Wales has an adequate preschooling system.

I give as an example the preschool at West Wyalong, which caters for just over 100 families and 110 children from those families. It has a staff of three teachers, two teachers who look after children with special needs and three assistants, along with the many volunteers who each day assist in the process. The school caters not only for families within West Wyalong and district, but also for those brought in by the rural bus from Tullibigeal. A number of special needs children simply have not been considered in the responsibilities of the West Wyalong preschool. The West Wyalong preschool, to keep its doors open, has to charge \$22 per day, or \$110 a week, for a full-time preschool child. That is well beyond the capacity of many families in any area—and West Wyalong is no different from any other area. Young families find it difficult to cope economically in this day and age. And the preschool cannot survive on even \$22 at child per day. It must have a greater income than that.

Today I call upon the New South Wales Government, first, to recognise that it has a responsibility to preschools and, second, to recognise the urgent needs of preschools. Those needs are not new; they have been well researched over the years. Organisations such as the Country Children's Services Association of New South Wales have for more than 10 years articulated the funding inequities and warned that the pressures on some preschool services, particularly in rural and regional areas, are reaching crisis point. I will read extracts from the association's newsletter of March this year:

The cost of preschool is much higher in New South Wales.

A comparison of preschool Australia in New South Wales in 1997-98 will give honourable members some idea of the magnitude of the problem. The cost per hour in New South Wales is \$3.48, in Victoria \$1.03, in Queensland \$1.75 and in Western Australia just 23¢. In South Australia it is \$3.70 per week. Clearly, preschools in New South Wales are severely disadvantaged. I quote further from the newsletter:

It is widely acknowledged by both researchers and practitioners that preschool experience assists in the transition to school, enhances success in literacy, encourages the development of social skills, provides respite for mothers of young children with few other resources to assist them, and assists in the protection of children at risk. Preschools also provide the opportunity to identify the early intervention needs of children with learning or behavioural difficulties.

I call upon the Government to put out the white flag in the battle between the States and the Commonwealth, and recognise its responsibilities. If we can find billions of dollars to bury electricity lines, surely we can find a few million dollars to educate the children of today, the adults of tomorrow, and maybe even the future politicians of this place.

#### **WESTMEAD MILLENNIUM INSTITUTE SCHOLARSHIPS**

**Ms HARRISON** (Parramatta) [2.26 p.m.]: I am delighted to have the opportunity to speak in the House this afternoon, because last Wednesday I presented the Westmead Millennium Institute's Foundation Annual Scholarships. Six extremely talented researchers received their awards, which will enable them to continue their vital quest for medical breakthroughs and cures. I have spoken in the House on previous occasions about the Westmead Millennium Institute and the Millennium Foundation, but it is important to recognise the six winners because of the wonderful work that they will do for all of us over the next few years. So I will say a little bit about each of the winners.

The first winner was Susan Maddocks, who graduated in medicine, first in her class and with honours, from Flinders University in South Australia in 1991. She subsequently did her specialty training in infectious diseases, and was awarded fellowship of the Royal Australasian College of Physicians in 2000. She will commence her PhD in 2002 at the Westmead Millennium Institute researching human immunodeficiency virus-induced alterations in macrophage gene expression as studied by DNA microarrays. The second winner was Upul Premawardhana, who is completing his clinical training in cardiology at Westmead and is starting his PhD work in collaboration with Dr Stuart Thomas. The aim of this work is to use sophisticated computer analysis and cellular electrophysiological models to understand the underlying mechanisms of atrial fibrillation.

The third winner was Deama Amr, who is a science graduate with honours from the University of Sydney. Deama's project is focusing on why drug metabolism differs so markedly between otherwise healthy individuals. This phenomenon makes accurate dosing with many drugs difficult, resulting in either undertreatment or toxicity. This is particularly important with regard to drugs used to treat cancer. Deama's work focuses on the role of vitamin D and bile acids—a product of cholesterol metabolism—in the regulation of the human cytochrome P450 and 3A4 gene, a major pathway of drug metabolism in man.

The fourth winner, and very deserving too, was Mark Wong. Mark completed his undergraduate medical degree at the University of New South Wales in 1994. He has been working at Westmead Hospital since internship, and developed interests in cancer research during his specialist training in medical oncology. His research title is "Expression and function of the orphan nuclear receptor SXR (hPXR) in normal breast and breast cancer", which will help us to understand the role of oestrogen in formation of breast cancer and how chemotherapy resistance is developed.

The fifth winner was Meriet Mikhail. Meriet is a medical science student from the University of Sydney, who has currently completed her honours with Dr Nitin Saxena in the Retrovirus Genetics Laboratory, Centre of Virus Research, working on the molecular mechanisms responsible for non-progression of HIV-1 disease. During the course of her work Meriet investigated the virological factors responsible for the non-progressive status of one unique true non-progressor that showed a state of evolutionary paralysis. She has

attributed this to the presence of stop codons existing in the structural genes of the proviral genome. Meriet now plans to extend her work to include the biological mechanisms responsible for a non-progression of HIV disease, and in addition to characterise the anti-viral factors that may contribute to true non-progression of HIV-1 disease.

The sixth winner was Catherine Stedman, a New Zealand medical graduate who had undertaken advanced training in gastroenterology in Christchurch prior to coming to the Millennium Institute. Catherine is taking advantage of novel discoveries concerning the regulation of the human cytochrome P450 3A4 gene made within the Department of Clinical Pharmacology and the Storr Liver Unit to look for new ways to manage patients with severe cholestatic liver diseases—conditions that can be fatal and still lack adequate treatments.

I wish these researchers the utmost success in their endeavours. The success of the Westmead Millennium Institute and the Westmead Research Centres was highlighted recently when the group won more than 25 per cent of the Federal Government's National Health and Medical Research Council research grants for New South Wales. Seventeen research projects investigating a range of diseases, including breast cancer, liver injury and cardiac arrests and snoring were awarded funds. At the moment there is a revolution in biotechnology. Our Government is keen to have New South Wales become a key international player in the field of biotechnology research and commercialisation.

As part of the Westmead research hub, the institute and research centres should be commended for the role they are playing in the development of a biotechnology industry in the greater west. The establishment of a biotechnology business park in the Parramatta area will create new health care and employment opportunities. I take the final few seconds available to me to thank Bob Bothwell, the outgoing Chairman of the Millennium Foundation, for being terrific to work with and very dedicated. I wish James Wakim, the new Chairman, the best of luck and I thank Victoria Hollicks for her help over the past year.

#### **PITT TOWN RESIDENTIAL DEVELOPMENT**

**Mr ROZZOLI** (Hawkesbury) [2.31 p.m.]: I draw the attention of the House to a matter of great concern to my electorate, namely, a proposed large-scale subdivision of land in the village of Pitt Town. As honourable members may know, Pitt Town is one of the five Macquarie towns and is a township of great historical interest. There is enormous interaction among its residents and the township has a character very much its own. The current development proposal is for the subdivision of an indeterminate number of lots. There would certainly be hundreds and, if the developer has its way, thousands. I do not wish to address the merits or otherwise of the residential development of the village; that is a subject for another day. However, I am concerned about one of the matters that has been drawn to the attention of the council by the local community, namely, the fact that Pitt Town is subject to the effects of major flooding. There is a very limited evacuation route from the village to higher land elsewhere.

The State Emergency Service [SES] has indicated that there would be some difficulty in evacuating large numbers of people from the village in times of major flooding. The problem of major flooding is not so much getting people out—although that is one consideration in the sense that their homes might be flooded—but that Pitt Town would become an island. As it is an area that Macquarie designated as one of his five towns in 1810, what is more likely to happen is that people will be trapped on the island by the flooding. In the event of a breakdown in sewerage, electricity and other systems which bear upon public health issues people would be trapped on the island and great difficulties would be placed on the way of the SES and other authorities whose responsibility it is to care for such people. For that reason it is important for an evacuation route out of the area to remain open so that in times of extreme emergency people will be able to be evacuated quickly and safely to other parts of the district.

The SES has indicated that it is capable of calculating the capacity of a flood evacuation route to take a specific number of people to safety. It seems to me that before the development proposal proceeds any further towards assessing other elements of the residential development, the flood evacuation route's capacity should be determined once and for all. If the SES determines that it will be able to evacuate to 100 or 200 people, which would equate approximately to the residents of 80 or 90 houses, that should be the limit on the potential for residential development. If the SES nominates a greater number, then the development proposal could increase accordingly and the manner in which subsequent residential development takes place would have to be calculated according to the limit. As I understand it, when the SES was pressed to provide that information, it indicated that because it is busy at the moment attending to damage caused by recent storms and natural disasters in the Sydney region, there has not been time to make the necessary assessment.

I suggest that the SES be requested to expedite its consideration of this matter with a view to making a decision as quickly as possible. In the event that that is not possible, the Minister for Planning or his department should issue a direction to the local council, which has control of the development application process—this is a local matter and is not a matter for New South Wales Planning—to halt any further work on the assessment of residential development capacity until the SES makes its decision on flood evacuation. I place public safety, the lives of people and their welfare above all else. It would be absolutely irresponsible to consider a proposal for a major residential development for Pitt Town if, at the end of the day, people will not be able to be evacuated to safety in times of major flood emergencies.

### **BULLI DISTRICT CELEBRATIONS**

**Mr CAMPBELL** (Keira) [2.36 p.m.]: I draw the attention of the House to a part of the Keira electorate, a suburb named Bulli, which is sometimes known as the black diamond district. Bulli is one of the earliest places in the Illawarra district to have experienced European settlement. Its heritage as a coalmining village goes back to the early 1860s. The main road between Hobart Street and Farrell Road, as well as the roads to the hills on one side and to the sea on the other, abound with the relics of its black diamond era and its early pioneers. The street names, hotels, shops and dwellings of the nineteenth century have survived more recent development. The name Bulli derives from an Aboriginal word meaning two mountains and was officially used from 1810. It was used to describe the whole area between Bulli mountain and Mount Keira even before the naming of Wollongong in 1834.

I mention Bulli this afternoon because in recent weeks I have had the opportunity of attending a number of celebratory functions there. It was a pleasure to attend the tenth anniversary celebration of the Black Diamond District Heritage Centre, which was held on Saturday 17 November. In the late 1980s the president of the heritage group, Mrs Fay Haines, and a couple of other stalwarts of the organisation, Ray Brown and Mick Roberts, took over the derelict railway buildings at the Bulli railway station on the downside or eastern platform. Those buildings had been condemned but this group of local people took on the project on a voluntary basis of renovating the buildings with, as the group readily acknowledges, a great deal of support from City Rail, the Wollongong City Council's mayor and the former member for Bulli and current member for Heathcote, Mr Ian McManus. The group has set up a small museum on the railway platform that displays the railway and coalmining heritage of the area. The tenth anniversary celebration was an interesting evening. There was a great deal of discussion not only about Bulli but also about the broader Illawarra district.

On 24 November I had the opportunity of attending the opening of a new church centre for what is now known as the Northern Illawarra Uniting Church Congregation constituted by the Uniting Churches of Woonona, Bulli and Thirroul. Those congregations came together to build a new church centre on the site of the Bulli church. The Bulli Uniting Church is an attractive historical building made of sandstone. A modern worship centre has been constructed at the rear of the site. I acknowledge the work of Nerida Miller and Jim Rumery, who are leaders of the congregation. I mention in passing that next April marks 25 years since my wife and I were married in that church. Last weekend the church held a great celebration at which local people came together in the historical suburb of Bulli. It should be noted that it was not just one person who cut the ribbon at the Uniting Church congregation's opening ceremony. The ribbon was long enough for a couple of hundred people, who were spread around the building, to hold while it was being cut in a joint commemoration gesture. That was quite a different way of conducting an opening ceremony and demonstrates the sense of community that is a feature of life in and around Bulli.

A couple of weeks ago the Bulli show was held. That is an important event on the calendar of the northern suburbs of Wollongong. As all local people expected—and we were not disappointed—it rained on the weekend on which the Bulli show was held. That has become something of a tradition: when the show is held, the people in attendance are drenched with rain. I am also pleased to note that on 23 November the Bulli primary school held its annual fete and a great number of people attended. My wife and I took the opportunity to attend the fete and catch up with some dear long-term friends and some new friends that I have made while working on traffic issues associated with the school. In discussions with the principal of the school, I noted that he was very positive about the progress that the school is making. I was pleased to speak to the principal and I am always more than pleased to attend functions in the Bulli district of the electorate of Keira.

### **CRONULLA ELECTORATE PUBLIC SAFETY**

**Mr KERR** (Cronulla) [2.41 p.m.]: Today I wish to speak about safety in the Cronulla electorate and in particular the need for dredging at Port Hacking. Last Sunday I attended a sailing day for handicapped children

organised jointly by the proprietors of Dolans Bay marina, Harry and Jesse Stanton, and Cronulla Rotary. On that occasion Councillor Kevin Schreiber was present as a member of Cronulla Rotary. Having regard to the nature of the function, we were able to speak to a number of people about the state of Port Hacking. I shall report to the House some of the remarks that were made. Jeff Forsyth, who has been Commodore of the Royal Motor Yacht Club, said that he had towed two yachts off the sandbar in the entrance to Burraneer Bay during November. Both the yachts had run aground in the channel.

Justin Frith said that on several occasions his vehicle had run aground while navigating in so-called safe channels. He had also rescued several yacht crews over the past few months, some of whom had narrowly escaped serious injury as a result of their vessels running aground. Neil Clark mentioned that he had run aground a couple of times, and had also pulled a large number of sailing boats off sandbars at Burraneer and just off Fisheries. These boats, if left where they were, could have caused injury to the occupants. Ray Barnes, who has a mooring in Burraneer Bay, said that he found it extremely difficult and at times impossible to travel to South West Arm or Bates Bay at any time the tide is less than half tied. Keith Wilson mentioned that his yacht is berthed in Dolans Bay. For him to go to sea he has to run the gauntlet of shallow and narrow channels at the end of Burraneer Bay and Gunnamatta Bay. Several times his vehicle has hit bottom at low tide in these areas.

On the day of the storm Mr Wilson attempted to pull a small motorboat off the bank opposite Ship Rock and this resulted in his boat going aground. Both boats required coastguard assistance. On the sailing day for handicapped children, while Mr Wilson was providing a sale ride for the children, his vessel ran aground off Lilli Pilli Point. He managed to back out but he hit bottom twice, thus putting those on board in danger. We have been very fortunate that death or serious injury has not been occasioned because of the state of Port Hacking. It is essential that dredging take place. I put the Government on notice that unless emergency dredging operations occur, lives will be lost and serious injury will be occasioned.

The second safety aspect relates to road signage. I have written to the mayor of Sutherland shire seeking her support for a new type of street sign that has been trialled successfully in Epping and has been endorsed by residents, authorities and emergency services. These signs make a significant contribution to road safety and are called lifesaver signs. The signs are characterised by property numbers displayed in large font on every sign, using a new numbering system called wedge notation. Wedge notation uses a wedge, or incline symbol, to show the direction of numbers, whether they increase or decrease.

The numbers show the first address in the block on both sides of the street. Only these three elements—two numbers and a wedge—are shown because drivers do not have time to decipher more. The numbers are 40 per cent to 100 per cent larger than usual, allowing them to be easily read across intersections and fast moving traffic. This readability, plus the conciseness of wedge notation, enables drivers to make safe, confident decisions quickly, which they cannot do using the present signage. These signs can reduce the response time of emergency services, prevent accidents caused by driver hesitation and reduce stress in all road users—hence the name lifesaver.

### **WALLSEND AGED CARE FACILITY PRESENTATIONS**

**Mr MILLS** (Wallsend) [2.46 p.m.]: Early last month I took part in a significant and very important presentation ceremony at Wallsend hospital campus. A double set of certificates were presented on the day. I joined Professor Katherine McGrath, who is the Chief Executive Officer of the Hunter Area Health Service, at the Wallsend aged care facility to make these presentations. We were joined at the ceremony by the director of nursing at Wallsend aged care, Lynn Moore. The first certificate—a single certificate—was Hazard Analysis Critical Control Point [HACCP] 9000. That is an internationally recognised food safety risk management program being rolled out across Hunter Health.

The Wallsend aged care facility, which has 105 resident patients, recently acquired HACCP accreditation, and the certificate presented on that day was the accreditation certificate. It recognises that the aged care facility has systems in place to ensure food safety. That means that Wallsend aged care is the first nursing home in Australia to achieve that certification. The accreditation is certified by an independent audit group such as Australian Quality Services, and the certification is reviewed twice a year. It was a pleasure to present that certificate to Colleen Saunders on that day. The second certificate presented was the TAFE certificate 1 in food processing, for which training was provided by TAFE instructors in-house to the food preparation and delivery staff at Wallsend aged care facility.

Twenty-seven staff at Wallsend undertook the training, which included a literacy program to assist in reading and understanding literature about food safety. The TAFE certificate 1 course in food processing also

focuses on food hygiene and gives the hospital assistants industry recognised food safety certification. Hunter Health received Commonwealth funding for this program under the workplace English language and literacy program. I understand that some \$500,000 is required to run these programs across Hunter Health. The two TAFE teachers who were responsible for teaching the Wallsend aged care staff, Janet King and Sue Maloney, were present at the ceremony. Clearly, they did a great job ensuring that all the Wallsend staff passed the course.

It is expected that by June 2002 all hospital assistants—that is more than 450—working in kitchens and food preparation areas or in the serving of food across Hunter Health will have completed that training, which complements the HACCP program for certification for its risk management program. Roger Carroll, who is the manager of food services for Hunter Health, was also present. Hunter Health is now doing a great job in food safety. Indeed, the annual report of the Hunter Area Health Service, which has just been released, lists health protection amongst the highlights of achievements for the service in 2000-01. A Hunter Health food safety committee has been established. The Hazard Analysis Critical Control Point accreditation has been achieved for five different Hunter Health sites, one of those being the Wallsend aged care facility.

Also present on the day were two representatives of the community, Barbara and Olive from Wallsend Guardians, a group that was formed at the time that the Greiner Government closed Wallsend acute hospital. They formed part of the picket line that lasted for 18 months noting the community's rejection of the decision. In addition, the guardians raise thousands of dollars each year for facilities at the Wallsend aged care centre. I congratulate all the food preparation and delivery staff and management of the Wallsend aged care facility on achieving HACCP accreditation and on winning their TAFE certificates in food processing.

### **WATERFALL WAY FLOOD DAMAGE**

**Mr FRASER** (Coffs Harbour) [2.51 p.m.]: I bring to the attention of the Minister for Roads the state of Waterfall Way, the road that connects Bellingen to Dorrigo. It was severely damaged by two floods earlier this year. The first flood, in February, caused some damage to the road, and in March major landslips caused further damage. Honourable members would have seen media reports of the North Coast floods and been aware of the two-week closure of the road. That road is the major link between Armidale, the Northern Tablelands, the western districts and the coast. The majority of tourists to Coffs Harbour who tow caravans for the Christmas holidays or the winter period travel along the New England Highway, turn off at Armidale, continue through Dorrigo into the Coffs Harbour area. That road is vital for access to the coast.

It is now nine months after the damage was caused and the Roads and Traffic Authority and the Minister have told me that the road needs design works. All road repairs need design works! The road shoulder has been washed away between the high school and the butter factory at Bellingen. The only design work needed there is to show someone how to fill a truck with gravel, roll it along the road and put some tar on the edge of the road. That is all that is needed to repair the road. At the bottom of that road a section has been washed away near where the river runs alongside the road. Repair there would necessitate that land, which is private land, being resumed, a gully piped and the roadway moved slightly to the south. At the site of the first set of traffic lights on the Dorrigo mountain, the roadway could be moved slightly west and the damage would be repaired.

Although the Roads and Traffic Authority has said that design work is needed, I do not believe that that is the full story; it is not the truth. People who live in Dorrigo and work in Bellingen and people who live in Bellingen and work in Dorrigo, on farms, travel that road twice today. They travel through four sets of traffic lights and face other delays that cause inconvenience and frustration. I suggest that that frustration and anger could lead to further accidents. I demand that the Minister call for a report on that road immediately. I have been told that the roadwork will not start until next May. Nothing has been done to upgrade Main Road No. 120, which could become an alternative route to Coffs Harbour. But that would not help farmers and others who travel daily between Dorrigo and Bellingen.

The signs on the roadway that state "short delays may be expected due to road repair", are an absolute lie. The road is damaged and no repairs are under way. At least three sections of the road could be reconstructed now. We have had one of our driest years ever yet we have been told that the roadworks cannot be done because of expected wet weather. If the authority's attitude continues, this road will never be repaired. If obstruction is being caused by the National Parks and Wildlife Service because the road goes through a world heritage area, that is not good enough. The Deputy Prime Minister, and Minister for Transport and Regional Services, John Anderson, inspected the road. He stated that the majority of roadworks in New South Wales that qualify for disaster funding are funded by the Federal Government. Once the State's annual level of funding has been reached, the Federal Government picks up the balance. He has offered to sign the cheque today and give money to the New South Wales Government to start that repair, but nothing has happened.

I demand that the Minister authorise commencement of that roadwork immediately. I demand that the people of Dorrigo, Bellingen, Coffs Harbour and tourists to those areas be given the convenience of a viable road, one that is in a condition that the Minister and I would expect to travel along. Sydney has magnificent highways and roads, but in my electorate that mountain road is dangerous, because of the four sets of traffic lights. The Government is sitting on its hands and doing nothing.

### **CENTRAL COAST ROADS AND TRANSPORT OFFICE**

**Ms ANDREWS** (Peats) [2.56 p.m.]: Woy Woy was the centre of attention on Monday 19 November when the Minister for Roads, and Minister for Transport opened the new Central Coast Roads and Transport Office. The new office is ideally located in the clock tower building opposite the relatively new bus-rail interchange at Woy Woy. It will be the springboard for a co-ordinated approach to the provision of new roads and upgrading others and improving public transport on the Central Coast in the foreseeable future. Mr Paul Forward, Chief Executive Officer, of the Roads and Traffic Authority [RTA], and Mr Bob Sharpe, Regional Manager, Hunter Client Services of the RTA, were also in attendance at the opening. Mr Forward introduced the following RTA staff who had been appointed to the new office: Chris Harrison, Central Coast Manager; Craig Leckie, Traffic Manager; Glenn Weymer, Network Manager; Kevin Hays, Project Manager-F3 Widening; Mark Currie, Traffic Commander; Mark Eastwood, Project Services Manager; Scott Stapleton, Road, Safety and Traffic Officer; and Ms Allison Carpenter, Administrative Support.

The widening of the F3 from the Hawkesbury River to the Calga interchange will be managed from the Woy Woy office. Honourable members would be aware that, while funding for the widening of the F3 is provided by the Federal Government, the responsibility for carrying out the work rests with the State Government, under the auspices of the RTA. This will present the recently appointed Central Coast manager, Chris Harrison, with many challenges. With vast experience in both the public and private sectors, the new manager is well equipped to meet those challenges. The environmental assessment plan of the F3 widening is now on display at the new office, as well as at a number of other Central Coast locations. RTA officers will be available to discuss the proposal at the Woy Woy office on Wednesday 5 December from 10.00 a.m. to 2.00 p.m.

Comments on the display should be lodged with the RTA by Friday 21 December. The Woy Woy office is proof of the commitment given by the Carr Government to the development of transport infrastructure on the Central Coast. It will provide employment for up to 30 people, 19 of whom will be in new positions. Further, it is a recognition by the State Government that the Central Coast region remains one of the fastest growing in New South Wales. The Central Coast office will be heavily involved in the future in implementing the State Government's transport action plan, which is being developed for the region. This plan, to be launched by the Minister, arises from consultations with Gosford City Council, Wyong Shire Council, chambers of commerce and other stakeholders.

The opening of this office is good news for the Central Coast and, in particular, the Woy Woy peninsula. Even the president of the Woy Woy peninsula chamber of commerce, who does not normally pay compliments to the State Labor Government, welcomed the Minister's announcement in August of the establishment of the office at Woy Woy. The State Government is project managing the upgrade of nearly 11 kilometres of the F3 to six lanes south of the Calga Interchange. The planning and design work is well advanced. Preliminary work, ahead of major construction, has already started on rock cutting stabilisation work on the freeway between Mount White and the Calga Interchange. This will provide three lanes in each direction between Kariong to well south of the Hawkesbury River. The widening will provide significant benefits for motorists travelling between Sydney, the Central Coast and points further north.

It will be achieved by constructing an additional lane in the existing median in both directions. When construction is under way, disruptions for motorists will be minimised by shifting traffic onto the existing road shoulder. When the widening is completed, the 110 kilometres per hour speed limit will return to some of the route south of the Mount White interchange. The 90 kilometres per hour speed zone is expected to be only five kilometres in length. Currently a 90 kilometres per hour speed zone applies to the route south of the Mount White Interchange.

The review of environmental factors [REF], which is now on display, covers a wide range of environmental and planning issues such as water quality, noise, vibration, flora, fauna and heritage. It is expected that tenders for the construction of the additional lanes will be called in the first half of next year. A contract for the project is expected to be awarded in mid-2002, with work to commence soon after. I congratulate the Minister, the Hon. Carl Scully, for acknowledging the importance of the Central Coast region

through the establishment of the roads and transport headquarters at Woy Woy. I look forward to vast improvements to roads and associated transport infrastructure within the Peats electorate emanating from that office.

### BEGA ELECTORATE ROADS FUNDING

**Mr R. H. L. SMITH** (Bega) [3.01 p.m.]: Once again I speak on a subject that never seems to go away: the appalling condition of sections of the Princes and Kings highways within my electorate of Bega. Before the Government starts skiting about the \$380 million in funding that was allocated to the Princes Highway in the last budget, I remind honourable members that my constituents and I are well aware of the facts. The facts are these: the \$380 million is to cover the full 700 kilometres of the Princes Highway in New South Wales, and the money is to be spread over a 10-year period. My calculations tell me that that equals \$38 million each year for the next 10 years, and \$38 million will hardly fill in the potholes, let alone upgrade some of the dangerous and appalling sections of the nation's number one road, Highway No. 1.

Last week I received a petition from the people of the Eurobodalla shire area with 3,400 signatures on it demanding that the New South Wales Government take immediate steps to improve the standard of the Princes Highway from Albion Park Rail to the Victorian border to the standard of the Hume Highway. The people have also called on the Government to immediately upgrade the Kings Highway from Batemans Bay. This is a most important road that links not only Batemans Bay but not all of the far south coast to the national capital. The people have asked the Government to investigate an alternative route from Canberra to the Eurobodalla Shire Council area. I again remind the House that there is no rail link to the far South Coast: all goods are transported by road. Large tankers make daily trips to both Sydney and Canberra carrying milk from the country to the city. Bega Cheese has recently entered the export market in a big way, and now that the multipurpose wharf and ammunition base at Eden is to go ahead there will soon be an increase in heavy transport, including B-doubles, flowing through the Eurobodalla area, via either the Princes or the Kings Highway.

I now turn to the tourism industry in the Eurobodalla. This is probably the major industry for many of the towns and villages in coastal areas. Only last week the Minister for Tourism stated on Sydney and regional radio that tourism has increased dramatically along the Princes Highway. Since the 11 September tragedy in the United States more and more people are opting to stay at home this tourist season and to visit their own coastal resorts. Most of the Eurobodalla area and further south all the way to Eden is already heavily booked. I cannot but wonder how the Princes and Kings highways in their present condition will cope with the increase in traffic. There is a major problem on a well-known sharp bend on the Kings Highway called Pooh Bear corner. I have been informed that the road surface there is highly dangerous. The bitumen has become so smooth that people have difficulty negotiating the corner. The police department and the Roads and Traffic Authority have acknowledged that the problem exists between Pooh Bear corner and Governors bend, however there are no funds available from this year's budget to fix it. Over the past few months there have been several very serious accidents in this area, so much so that my representative on the Eurobodalla Shire Council's traffic committee will submit a report to the next meeting, which will be strongly supported by the local police sergeant.

Finally, I mention the Government's proposal to push through a charcoal factory project at Mogo. This factory, should it go ahead, will operate by burning tonnes of timber at high temperatures. How is the timber going to get to the factory? By road transport. And when the charcoal is produced, how is it going to get from the factory to the smelter at Lithgow? By road transport. If the Princes and Kings highways are not upgraded before all this development takes place the increase in heavy transport through the Eurobodalla Shire will create a potentially more dangerous situation than there is at present. Therefore I call on the New South Wales Government, particularly the Minister for Roads, to seriously consider the views of the people of the Eurobodalla, who are the main users of these two major roads. Remember, 3,400 people signed the petition and it should not be ignored by the Minister. I hope that he will allocate sufficient funds to bring the two highways up to a reasonable standard more quickly than would be possible with the present level of funding.

### WONDERLAND SYDNEY DISABLED CHILDREN VISIT

**Mr ANDERSON** (Londonderry) [3.06 p.m.]: I bring to the attention of the House today an outstanding function that occurred in my electorate on Wednesday 21 November. Special needs children, 343 children with physical and intellectual disabilities, from seven schools in my electorate—Emerton Public School, Cambridge Park Public School, Halinda Special School, Hobartville Public School, Lethbridge Park Public School, Whalan Primary School and Windsor Park Public School—participated in a day out at Wonderland. For the past four years I have been very lucky to have the co-operation of the management of Wonderland Australia in receiving

children from my electorate. This year was no exception: the children were made welcome by senior people from Wonderland. I offer my thanks and congratulations to the general manager, Stephen Galbraith, who was keen to continue the local tradition that we have established. In addition to the children, 151 carers attended the function—the biggest attendance in the four years the outings have been held.

Halinda Special School had the highest attendance with 120 children and 90 carers. The day was an outstanding success, even though the weather was overcast and cool. The kids certainly appreciated the day. They were able to get out, run about and enjoy all the facilities of the park that were open to them. The kids and the carers enjoyed rides such as the Zodiac, Huckleberry's Merry-go-round, and Fred Flintstone's Splashdown. Some of the more daring kids even had a go on the Demon. I have ridden it in the past and I would not do it again. The kids certainly were not daunted by it; they gave it their best and enjoyed it immensely.

A number of people made a special contribution to making the day a success. I offer my thanks to Mrs Anne McFarlane from my office. As in previous years, she organised the day. This year it was an even bigger success than previously. Mrs Laurel Maddocks from Halinda Special School had attended in previous years and informed the kids of the great day available to them. Consequently, every child at Halinda Special School attended this year. She saw me last night at the school's graduation ceremony and again thanked me and Wonderland for the great opportunity provided to the kids. She said that it was the best day they had ever experienced. The kids are already asking when they can go back. They look forward to the entertainment that will be provided next year. I again thank Wonderland Sydney, formerly Australia's Wonderland, for the way it has treated the children from my electorate in the past and again this year. I look forward to working with Wonderland Sydney in future years and compliment the management on its community responsibility in accepting the children without charge.

**Private members' statements noted.**

**House adjourned at 3.11 p.m. until Tuesday 4 December 2001 at 2.15 p.m.**

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