LEGISLATIVE ASSEMBLY

Thursday, 1 December 1994

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Mr Speaker (The Hon. Kevin Richard Rozzoli) took the chair at 9.00 a.m.

Mr Speaker offered the Prayer.

M2 MOTORWAY CONTRACT

Auditor-General's Draft Report

Mr BAIRD (Northcott - Minister for Transport, and Minister for Roads) [9.00]: I seek the leave of the House to table a report of the Auditor-General and to make a brief statement.

Leave granted.

I table the report pursuant to the resolution passed by this Chamber on Tuesday, 22 November. In doing so I point out that it has been produced without the usual checks and balances applicable to a special audit under the provisions of the Public Finance and Audit Act. As a result, this report represents the Auditor-General's view and follows discussions with me and the Roads and Traffic Authority. There is substantial disagreement between the RTA and the Auditor-General on one significant issue, but that will be reviewed at some length. Sufficient time has not been available to allow any carefully considered Government response on particular points of issue, as provided for under normal circumstances in which a special audit is presented to the Parliament.

Mr LANGTON (Kogarah) [9.01]: I look forward to reading the report with interest. However, the Minister for Transport, and Minister for Roads has pointed out the problem that he and the Government have. There has not been sufficient time for the Auditor-General to consider this issue, simply because the normal provisions which should apply in a democracy for all taxpayers and the Parliament to be able to review major projects have not been available in regard to this matter, the M4 or the M5. This sort of process should have come before this Parliament and been available for public scrutiny 12 months ago. That demonstrates the appalling record of this Government when dealing with private sector involvement in public infrastructure. I look forward with interest to reading this report.

PUBLIC ACCOUNTS COMMITTEE

Report: State Debt Control (Balanced Budgets) Bill

Pursuant to section 57 of the Public Finance and Audit Act 1983, the Clerk announced receipt of Report No. 86 of the Public Accounts Committee entitled "Inquiry into State Debt Control (Balanced Budgets) Bill 1994".

ST GEORGES BASIN/SUSSEX INLET INTERIM PROTECTION BILL

Bill introduced and read a first time.

Second Reading

Mr HATTON (South Coast) [9.02]: I move:

That this bill be now read a second time.

The object of the bill is to provide interim protection for the environment, wildlife, scenery and natural systems of St Georges Basin and Sussex Inlet, including Tullawarrah Lagoon, Wandandian Creek estuary, Jewfish Bay and Cow Creek, and areas in the vicinity of Badgee Lagoon, by deferring development of the land within their water catchments until a regional environmental plan has been prepared that will subject any such development to appropriate environmental planning controls. St Georges Basin, in central Shoalhaven, is a large, shallow saltwater lake with a narrow outlet to the sea via Sussex Inlet. My knowledge of and association with this area goes back 40 years. In the 1950s and 1960s the area was rich in marine life, prawns, fish, flathead, whiting, bream, blackfish, jewfish, the occasional schnapper, and other species. In good seasons catches are still good, although, in my view, less than they used to be. It is difficult to measure the overall volume of fish taken out of the lake, although marketing returns by professional fishermen and creel counts assist. Obviously there are many more tourists now than in the 1960s.

The catchment and foreshores of the basin are vital to retention and improvement of water quality, and therefore marine life. Fish have amazing fecundity, being able to reproduce in large numbers when conditions are ideal. The eastern shore of the lake is part of the Federal territory which is now part of a Federal national park. The northern shore has been extensively subdivided and built upon, although there are still many more blocks available. Erowal Bay, Sanctuary Point, St Georges Basin, Basin View and a number of other smaller settlements are dotted along the northern lake foreshore. A compounding growth rate in excess of a staggering 10 per cent in the St Georges Basin and Sanctuary Point area with up to 10,000 building blocks available means that the lake, which has suffered from run-off siltation and urban pollution, will be put under continuing pressure, as will its environment.

As long ago as 1970, when I was Shire President of the then Shoalhaven Shire Council, I recognised the lake's vulnerability. Witnessing what was happening to a similar lake further north - Lake Illawarra - I tried to have planning strategies put into place to protect the sensitive Tullawarrah Lagoon wetlands and peninsula at the western end, and the southern shores of the basin in general. Various development

proposals have surfaced over the years. Proposals by Lucas and Tait at northern Sussex Inlet and by Realty Realizations Proprietary Limited will impact on the environment. In the last 2½ years Realty Realizations has brought forward development proposals stretching behind up to 11 kilometres of foreshore.

When news of the development reached the St Georges Basin community there was considerable backlash. Over 400 people spontaneously attended a public meeting and the vast majority were in vigorous opposition to the development. I recognise that there has been significant environmental improvements to the original plan. Almost the entire area of remaining foreshore and immediate hinterland to the south and west of the basin is in private ownership. This area will be affected by this bill. The draft environment study of the major development, known as Millanden Estates, lists nine areas of wetlands, five of which are of state environmental planning policy status. Briefly, flora consists of spotted gum, blackbutt, scribbly gum and red bloodwood woodlands and open forest, and a wide variety of wetlands flora. Fauna abounds.

According to the report yellow-bellied gliders have been sighted in the Picnic Point area and the other side of Swan Bay. Kangaroos, black cockatoos, wallabies, antechinus, large fruit bats and other species have been sighted. Studies indicate that it is likely that powerful owl and tiger quoll will be present. The area is also rich in archaeological sites - shell middens with some artefacts, 14 sites in the Jewfish Bay area and 300 in the Sussex Inlet-Jervis Bay area as a whole. Subdivision could be massive, even under the modified plan, with 300 to 350 urban blocks of 650 square metres in size, and 270 rural residential one-hectare blocks planned for the catchment of Swan Creek, Cow Creek, Booroowungan Creek and Bea-al Creek.

This is not a radical bill. It does not seek to prevent development. It seeks to have an environment plan that will respect the natural values and the importance of the area. This bill will cease to have effect when a regional environment plan, possibly as stage two of the plan nearing completion covering Jervis Bay, is proclaimed. Power in this bill still rests with the Minister to make regulations to cater for unforeseen events. The bill specifically excludes the maintenance of the existing golf course and actions which are necessary for fire protection. Clause 7 requires the Director of Planning to prepare and submit a draft regional environment plan imposing appropriate controls on development of the land. Destruction of native flora and fauna, and development other than that necessary to maintain the existing golf course and provide fire protection, are prevented and are an offence under the Environmental Planning and Assessment Act 1979.

Clause 8 provides for the repeal of the prohibition imposed by section 5 when a regional environment plan has been certified and takes effect. Nothing in this Act restricts or prohibits the acquisition of land for the purposes of reserves or for dedication under the National Parks and Wildlife Act. The Act binds the Crown and makes consequential amendments to the Land and Environment Court Act. Schedule 1 describes the land to which the proposed Act applies. I commend the bill to the House.

Debate adjourned on motion by Mr Hartcher.

FIREARMS (REFERENDUM) BILL

Bill introduced and read a first time.

Second Reading

Ms MOORE (Bligh) [9.10]: I move:

That this bill be now read a second time.

I became involved in the issue of gun law reform when five of my constituents were gunned down in the "Northcott" Department of Housing estate in Surry Hills. Subsequently, in 1991 I was a member of the Joint Select Committee upon Gun Law Reform. That committee was formed in the aftermath of the Strathfield massacre. I unsuccessfully proposed to the committee the reforms encompassed in this bill. Recently the Independents were approached by Ken Marslew, whose son was shot dead at Jannali Pizza Hut earlier this year, and it is at his request that this bill has been introduced. The bill provides for the holding of a referendum on whether the Firearms Act should be amended to require registration of all firearms; to require the storage of all guns in armouries, except for those of primary producers; to require primary producers to store firearms in steel safes; and to allow the police standard entry powers to inspect safes.

The proposal to hold a referendum is about creating a less violent society. It is about private and public safety. It is about asking the people of New South Wales to inform the Parliament whether they want the proposed reforms enacted. If the referendum is successful, a future government will have a mandate to change the law. I realise the difficulties and pressures the parties face in relation to gun law reform. I have heard about halls full of angry gun owners prior to the 1988 election, and in 1991 I saw the huge march down Macquarie Street led by the honourable member for Tamworth. I believe that gun ownership in Australia is a privilege and not a right. We do not have a constitutional right to bear arms, but we do have the right to lead lives free from violence. This right must take precedence over any privilege that a citizen has to own a gun or to pursue a recreational activity. Under the current law only pistols are required to be registered. However, the vast majority of deaths are caused by ordinary rifles and shotguns. The amendments in the bill will provide for the registration of all firearms.

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

Ms MOORE: It is estimated that there is one gun for every four people in the community. That means that guns in private hands outnumber police

weapons 10 to one, but until there is a system of registration no-one knows the exact number of guns in New South Wales. The storage of guns outside the home in urban areas could dramatically contribute to reducing firearm violence.

Mr SPEAKER: Order! I call the honourable member for Monaro to order for the second time. Participation by members in debate should not be by way of interjection but by way of proper contribution when they are given the call.

Ms MOORE: I was amazed by the evidence given to the gun law reform committee about domestic terror associated with guns in the home, and it is women and children who suffer in that situation. About 700 Australians die each year from gunshot wounds. Two hundred of those are in New South Wales. Suicide accounts for 80 per cent of those deaths, homicide accounts for 16 per cent and accidents account for 4 per cent. Most homicide victims are the spouse, or a relative or friend, of the killer. Australian research shows that in households with guns, the most likely victim will be a member of the family, especially a teenage son. The typical gun death is a suicide by a depressed young man. The amendments in the bill will not prevent people owning guns. The proposed referendum will ask the people of New South Wales whether they support the storage of guns outside the home in urban areas. The bill proposes that in urban areas guns will be stored in armouries at police stations or at other places approved by the Commissioner of Police.

I realise that guns are necessary for primary producers. They will be permitted to keep guns on rural properties, but they must be stored in steel cabinets bolted to a floor or wall and secured by a combination lock. The police will have standard powers of entry to inspect storage facilities. The proposed referendum asks whether the people of New South Wales want an increasingly violent society. It asks whether we want to go down the American road. This question is important for every citizen of New South Wales. Gun violence in America is at plague proportions. One person dies every 15 minutes from gunshot wounds. Every two years more Americans die as a result of the use of firearms than in the entire Vietnam war.

It is estimated that in 1987 135,000 children carried hand guns to school daily. Semi-automatics, which were first seen in the Vietnam war, are now so common that hospitals are recruiting army physicians for their skills in treating combat wounds. England and Wales, by contrast, have much stricter gun laws than Australia. As a consequence, those countries, despite having populations far exceeding that of Australia, have much lower gun death rates. In 1988 England and Wales had only 36 gun homicides. Because of this compelling evidence and because of the fact that the bill involves the democratic process of a referendum, I commend the bill to the House and seek bipartisan support for it.

Debate adjourned on motion by Mr Hartcher.

RESIDENTIAL TENANCIES (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Ms MOORE (Bligh) [9.16]: I move:

That this bill be now read a second time.

This bill is very much a part of my campaign to ensure that in the lead-up to the Olympic Games in the year 2000, low-income housing does not dramatically decrease as it did in the wake of the bicentenary in 1988. The bill, together with the legislation the House will deal with shortly, is part of my campaign to change rating categories for boarding and lodging houses to residential instead of commercial. Part of my campaign is the

securing of land tax exemption for property owners with low-income properties in the inner Sydney area. The aim of the bill is to guarantee tenants reasonable security of tenure, affordable levels of rent and equality in their dealings with both public and private landlords before the Residential Tenancies Tribunal. The result will be fair and comprehensive tenancy laws that are at least equal to those in other States, and in some cases the benchmark for other States to meet.

The Residential Tenancies Act has been in force for five years. It has become apparent that some of its provisions are oppressive to tenants. In particular, the provisions dealing with the termination of the agreement by the landlord, representation of tenants before the Residential Tenancies Tribunal, and excessive rents are regarded as being clearly unfair to tenants. Now is a particularly appropriate time to review the Act and to put in place, well before the year 2000, measures that will ensure that moderate- to low-income residential tenants have reasonable security of tenure, affordable rents and are dealt with fairly. Figures collated by the national housing strategy, an initiative of the Federal Minister for Housing and Regional Development, show that in 1991 nearly one-fifth of Australian families lived in private rental housing. If the number of Department of Housing tenants is added, the resulting figure represents a significant proportion of the population. In 1991 the United Nations Committee on Economic, Social and Cultural Rights made the following finding, which was subsequently ratified by Australia:

> The right to housing is the right to live somewhere in security, peace and dignity.

The proposed amending legislation guarantees those rights to tenants. In Victoria, residential tenancies legislation has been in force since 1980, and the excessive rents provisions under the Act compel the Victorian tribunal to take into account other factors, such as the state of repair and general condition of the premises, when determining whether rent increases are excessive. That State has more bureaucratic involvement in that the Director of Consumer Affairs must provide a report into each excessive rent complaint. Such a system is not proposed for New South Wales under the amendments before the House.

What is proposed is simply a fairer system for tenants under which the onus is no longer on the tenant to prove that the rent increase is excessive. In South Australia the combined effect of the legislation in that State also ensures that the South Australian tribunal ultimately considers factors other than market rent. Such a system must be firmly in place well before a small number of landlords raise rents for the ultimate purpose of evicting low-income tenants. A warning to this effect is contained in the joint Shelter-New South Wales University of Western Sydney report entitled "Olympics and Housing". For this reason I called upon the Minister for Transport, and Minister for Roads, who is responsible for the Olympic Games, to ensure that a social impact study was prepared.

Mr Hartcher: The Government is looking at that.

Ms MOORE: I acknowledge that the Government has taken action, but looking after our citizens in the lead-up to the Olympic Games is a serious responsibility. The present section 94 of the Act permits real estate agents to represent landlords as of right. However, the tenant is permitted representation only if the party - the tenant - is unfairly disadvantaged, and only when it appears to the tribunal that representation should be permitted as a matter of necessity. It is clear that a tenant could be represented, for instance, only when the jurisdiction of the tribunal is under challenge, or when the tenant is simply unable to present his or her case through ill health or intellectual or mental disability, or has major difficulties in presentation through non-English speaking ability. This is, indeed, the practice of the tribunal, with the exception that in retirement village matters - the subject of a separate Act - representation, when sought, is usually permitted.

The tribunal's published statistics reveal the stark reality. From December 1990 to December 1992, the tenant was represented in less than 2 per cent of matters where the landlord was represented. By comparison, in Victoria, full legal representation is granted the tenant as of right in all eviction proceedings before the tribunal. The proposed amendments to section 94 of the Act do not propose that full legal representation for tenants be the norm. The proposed amendments will ensure that tenancy workers, who need not be legally qualified, are permitted to appear for tenants when the landlord is represented by an agent. That is in line with

the increased role given to tenancy workers under the tenants advice and advocacy program, a 1994 budgetary allocation by the Minister for Housing following an undertaking that he gave to me during HomeFund negotiations. I acknowledge the role that the Minister played, and thank him for the help that he has given tenants. The major text on the 1983 Victorian and South Australian Acts, "Residential Tenancies Law and Practice - Victoria and South Australia", states:

> Landlords gain from cheap and speedy eviction proceedings, most notably in the area of recovery of possession.

There is, however, a major difference between these States and New South Wales in that they do not have a "no grounds" form of eviction based on a 60-day notice. It is altogether far too easy for landlords to evict tenants in New South Wales for no reason at all. The only impediment to such an eviction is for the tenant to allege that the eviction is retaliatory, for example, that the landlord is paying the tenant back for the tenant exerting some right. This defence has more teeth to it in both Victoria and South Australia. It is rare for tenants to succeed in this defence in New South Wales - it is the only defence available for no grounds eviction- - largely because the onus is on the tenant to prove it, and the tenant is permitted representation in only 2 per cent of cases, as shown before.

The only defence available - that of retaliatory eviction - is applicable only when the tenant has applied, or proposes to apply, for an order, has already had an order of the tribunal, has complained to a governmental authority or has taken some other action to secure or enforce his or her rights as a tenant. The perceived inadequacies of retaliatory eviction defences will be eliminated by the proposed amendments to sections 56 to 59, ensuring tenants security of tenure. The proposed amendments to the laws governing eviction of tenants are consistent with, and supported by, the comments and statements of principle in the National Housing Strategy of the Commonwealth Government. The broad approach of the National Housing Strategy in relation to tenants is expressed in the paper entitled "The National Housing Strategy - The Agenda for Action", which stated:

> Renters need to enjoy some of the attributes of home ownership including security of tenure - the right to continued occupation of a home . . . Measures need to be taken to provide an integrated framework of legislative and other consumer protection reform so that by the year 2000 tenants can enjoy a greater level of security and stability in their homes.

The National Housing Strategy concluded that foreclosure or eviction should only occur on the basis of just cause when "just cause" is defined broadly to include, for example, default on breach of agreement and specified reasons, such as the sale of property by owners. The proposed sections 56 to 57C, replacing previous sections, will provide for this security of tenure, while allowing for evictions when the premises are sold or are required for strata titling, demolition or conversion. The proposed sections 57D and 57E in turn set out a procedure for eviction on breach of a term of the agreement by a tenant. The initial step in these provisions, both with an ordinary breach and a breach for non-payment of rent, is a notice to remedy, providing 14 days for rent default and one month for other defaults. If a tenant remedies the breach within the time period, the notice is satisfied and there is no necessity to proceed further. These proposals are in line with the Residential Tenancies Act 1980 of Victoria.

The report of the National Housing Strategy recommends such a procedure, in conjunction with other provisions to support security of tenure for tenants. These proposed sections will assist, in particular, low-income tenants and recipients of social security benefits. It is not uncommon for one fortnightly pension to be temporarily stopped. This makes the payment of rent difficult, but it is usually remedied by the receipt of the next payment. Under the present law, the agent is compelled to issue a notice to terminate, putting the tenants whole housing at risk. The proposed changes to section 25 will allow the tenant to refuse or injunct the use of dangerous chemicals to spray or clean premises. Chemicals such as chlordane and heptachlor are still used by unlicensed pest exterminators, and permanently affect the health of tenants and their children. The definition of "reasonable standard of security" is clarified by the proposed amendment to section 29 to ensure

that tenants can compel landlords to provide sufficient security so that tenants can have their possessions insured. The proposed amendments to section 40 will eliminate problems that have occurred in practice with rent receipts.

The proposed changes to sections 6 and 69 will give tenants, in effect, the same rights as landlords in relation to particular terminations of the agreement, with the tribunal given the power to oversight these. It is recognised that there should be some delay in proclamation of the proposed amendments to section 40 to allow the Department of Housing to amend its procedures, but ultimately the department should adhere to the benchmark met by the private sector and issue rent receipts and notices to increase rent. I put it to the House that now is a particularly appropriate time to review the Residential Tenancies Act, so that measures are in place to ensure that low- to moderate-income tenants are afforded adequate legislative protection, especially in the lead-up to the 2000 Olympics.

Debate adjoined on motion by Mr Hartcher.

LOCAL GOVERNMENT (BOARDING AND LODGING HOUSES) AMENDMENT BILL

Second Reading

Debate resumed from 27 October.

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [9.26]: At the outset, I indicate that I represent the Minister for Energy, and Minister for Local Government and Co-operatives, and on behalf of the Government, I point out that we support the legislation. We can remember with some pride that, after many months of trying, we have now been able to achieve the passage through this Parliament of what is obviously landmark legislation, marking a new era for local government.

The Local Government Act 1993 gave councils a significant degree of autonomy in the way in which they conducted local community affairs. The Act swept away the myriad detailed provisions that restrained or hampered councils in responding to community needs. This reform has had a significant effect in council rating, which is obviously what this bill is about. For example, councils no longer have to set rates for business land that are above the rates for residential land. The relativities of rates among the categories of land are decisions for individual councils. The problem identified by the honourable member for Bligh has arisen only because, in practice, a number of councils have chosen to set higher business rates. If they had chosen instead to set lower business rates, this matter would not have been raised.

During debate on the Local Government Bill 1993, it was generally acknowledged that such significant legislative change would require some finetuning. However, let me make it clear that finetuning does not extend to overriding the legitimate applications of the provisions of the Act by councils. I would not condone this House for being besieged with private members bills because the rating structure of a particular council has resulted in higher rates for a particular individual or group than were previously levied. As I understand the honourable member for Bligh, the point being made is that boarding houses and lodging houses provide residential accommodation. Notwithstanding that they are run as businesses, it is the type of accommodation that they provide that should determine their rating category.

Further, the residential category is the most appropriate, irrespective of whether the boarding houses and lodging houses are highly profitable businesses, or whether they are struggling to remain economically viable. I make this point because not all boarding houses are of the type described by the honourable member for Bligh or located entirely within the inner suburbs of Sydney. Generally, I accept that boarding houses and lodging houses provide residential accommodation. Therefore, I support the bill, with one important exception and that is backpacker hostels. Backpacker hostels are focused exclusively on the tourist market. They provide basic bed accommodation to short-term visitors on a profit basis. They are therefore business enterprises.

This type of accommodation for travellers, tourists and persons engaged in recreational pursuits should be treated differently to low-cost residential accommodation for the socially disadvantaged. The fundamental distinctions in the operations of boarding houses and lodging houses and their clientele compared with the operations of more commercial enterprises need to be recognised. If they are not distinguished it is the concern of the Government and all honourable members that more boarding houses could be converted to backpacker hostels as the 2000 Olympic Games approach. Therefore, in Committee I will move on behalf of the Government an amendment which will provide the protection sought by the honourable member for Bligh for the low-income group and will ensure that her objectives are achieved.

Page 6094

Mr J. H. MURRAY (Drummoyne) [9.30]: It was only recently that the Government brought forward in this House legislation that provided land tax relief for boarding houses. That measure was a consequence of the budget and it was supported by the Opposition. At that time I indicated that the thrust of the legislation would be to no avail unless there was a resolution of the problem relating to the rating of these facilities as commercial rather than residential undertakings. Earlier this year, when the Minister was made aware of the problem, he said that he was considering the matter, that he thought that there was no real problem and that under the existing provisions of the new Local Government Act any problem could be rectified in affected areas, such as South Sydney, Waverley, North Sydney and the city of Sydney. Of course, the matter cannot be corrected because legal advice given to the relevant councils is that the remedy suggested by the Minister is not in accordance with the provisions of the Act. The Minister for Energy, and Minister for Local Government and Co-operatives stated:

> Whilst I note your concerns that some Councils may not introduce reduced rates for boarding houses, I am of the view that most, if not all Councils, will adopt appropriate rate policies in relation to those boarding houses which provide accommodation for people with disabilities, people with mental illness and people on low incomes.

That is just gobbledegook; it is a bureaucratic answer. Today the honourable member for Bligh has shown by her bill that the matter can be resolved, and the Opposition supports the legislation. In fact, at the local government conference in Leura I made a commitment on behalf of the Opposition and I commended the honourable member for Bligh. At that time I stated that I was uncertain whether the mechanisms of the House would allow the bill to be dealt with expeditiously. Though I hope the bill will pass through this House today, I am aware of a logjam in the upper House. I appeal to the Government to support this excellent legislation and expedite its processing through the upper House. I have received correspondence from a number of councils and I wish to put on the record their comments, indicating the extent of their concern. First, I refer to a letter dated 6 July from Ross Kempshall, General Manager, North Sydney Council, who stated:

> This category states that boarding houses and lodging houses can no longer be rated as residential and are to be classified as a business. The re-categorisation will result in a substantial increase of rates levied on boarding/lodging houses. This increase will have a dramatic impact on boarding/lodging house operators and may result in the following consequences:
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> 1. Higher rates - may result in increased rents, which will have potentially serious effects on the residents.

Honourable members are aware that some rents have increased 350 per cent. That is equivalent to $100 per room. Low-income earners cannot be expected to pay such a rent increase. The letter states that another consequence of recategorisation is:

> 2. Cancellation or postponement of maintenance and repairs to boarding/lodging houses - this may lead to a reduction in the amenity and safety of the building.

Many of these facilities have been renovated from old-style mansion-type accommodation. Those buildings when originally built did not conform with existing fire regulations and such other matters. A reduction in the

maintenance programs of these buildings will result in disaster for the occupants. The letter notes as a further consequence:

3. Redevelopment of their properties to alternative uses.

Many of these places, if their owners are forced to pay commercial rates, will become backpacker accommodation. The resultant steady stream of clientele will enable them to charge backpackers a larger quantum of rent. As a consequence, people in need of this type of accommodation will suffer. Boarding houses provide an important source of accommodation for low-income earners and other people with special needs. North Sydney Council is to be commended for drawing this matter to the attention of the Parliament. I wish to refer to the role of Waverley Council and inform the House that the Mayor, Ms Armitage, has made similar comments. Credit should be given to the council for its positive policy in relation to the retention of boarding houses. Clause 27 of the Waverley local environment plan 1985 requires council's approval for the demolition or change in use of boarding houses. Leichhardt Council, which adjoins my electorate, has similar provisions.

Mr Hartcher: It is Michael Mangos' seat.

Mr J. H. MURRAY: What a joke! I thank the Minister for interrupting because last Sunday Michael Mangos stood up at a public meeting and was booed off the stage. If I were him, I would be worried about ever standing up again, especially when I receive all the claps, cheers and accolades. However, I shall not take that matter any further. Also, the boarding house retention policies of Waverley Council indicate -

Mr SPEAKER: Order! The member for Drummoyne should not read large portions of documents onto the record. If he cares to paraphrase the content, I am sure the House will understand the message he wishes to convey.

Mr J. H. MURRAY: I am attempting to paraphrase two pages in about 10 seconds. Also, Waverley Council enforces State Environmental Planning Policy 10, which relates to the retention of low-cost affordable housing. A rate rebate policy was introduced in 1991 which offers a 75 per cent rate rebate for boarding houses offering low-rental accommodation. Local government, which is at the cutting edge, has positive policies; it is incumbent on State legislators to follow through and ensure that this anomaly with the Local Government Act is rectified. I commend the honourable member for Bligh and assure the Parliament that the bill receives the fullest support from the Opposition.

Mr IEMMA (Hurstville) [9.38]: I support the bill introduced by the honourable member for Bligh. As outlined by the honourable member for

Drummoyne, a number of councils in the inner city of Sydney have stated that their legal advice is that the most appropriate way to resolve the problem identified by the honourable member for Bligh is the simple amendment to section 516 of the Local Government Act. This would have the effect of alleviating the anomaly by rating that category of boarding houses as residential. The problem is widespread in a number of areas of Sydney, particularly in the inner city. As Minister Longley's task force into boarding houses stated, 178 boarding houses and lodging houses throughout New South Wales accommodate 3,752 people. The people who use boarding houses and lodging houses are those in our community who are most in need.

The Parliament has a responsibility to meet their needs and to provide them with some protection. The report of the task force provided the following statistics on the types of persons who reside in boarding houses and lodging houses: 70 per cent of residents are male; a large percentage are elderly - 65 per cent are over the age of 50 and 42 per cent are over the age of 60; 44 per cent have a psychiatric disability; 28 per cent are intellectually disabled; 19 per cent have disabilities related to substance abuse; and 39 per cent are from a psychiatric institution. The amendment proposed by the honourable member for Bligh will provide the help and protection needed. It could be potentially disastrous if boarding houses and lodging houses were converted to a more commercial use because of the current rating structure. In that event a number of people would find

themselves homeless. Honourable members are aware of the inadequate provision of public housing, particularly in the inner city.

In the St George and Canterbury regions almost 9,000 people are on the public housing waiting list, but the problem is more severe in the inner city. We do not have a large stock of public housing coming on line to assist residents. Should boarding houses and lodging houses be lost to residents, they will be left without protection. The honourable member for Coogee has been working closely with Waverley Council to try to resolve the problem. As the honourable member for Drummoyne stated, Waverley Council has planning codes that provide for the retention of boarding houses and lodging houses, and it should be congratulated on that initiative, as should the honourable member for Coogee. Parliament should heed the call of Human Rights Commissioner Burdekin to protect accommodation for people living in boarding houses and lodging houses. As Minister Longley's task force report outlined, the problem needs to be addressed. The amendment proposed by the honourable member for Bligh will do just that, and it should be supported. I congratulate her on the work she has done and I call upon the Government to support the amendment.

Mr E. T. PAGE (Coogee) [9.43]: It gives me great pleasure to support the timely amendment proposed by the honourable member for Bligh. Under the previous Local Government Act boarding houses and lodging houses were in areas zoned residential, so a relatively cheap rating structure was important in their financial operations. By and large boarding houses are neither easy to run nor a great financial bonanza for those who own and operate them. Boarding houses and lodging houses provide a social need. Invariably, the occupants are on low incomes, and many with developmental problems would not otherwise be able to find accommodation in the normal residential sphere.

Maintenance of boarding houses is essential not only because they provide a safety net but also because people residing in boarding houses would qualify for inclusion on the Department of Housing waiting list. If boarding houses and lodging houses closed tomorrow, the number of people applying for Department of Housing properties would increase dramatically. As far as the State Government is concerned, it is not only a matter of equity but also practicality that every effort be made to ensure that existing accommodation is used to its most efficient level, enabling as many people as possible to find reasonable accommodation.

Under the Local Government Act 1993 residential land was categorised as land predominantly used for residential accommodation, but among the many exclusions from that category were boarding houses and lodging houses. Though I was a member of the parliamentary committee that reviewed the Local Government Act I do not recall such an exclusion provision being highlighted to the committee. My view is that it was a bureaucratic decision made on the basis of some sort of economic rationalism. I am certain that had such a provision been highlighted, the committee would have unanimously supported the current proposal.

The change in land category from residential to business has resulted in increases in rentals of up to 350 per cent, upsetting the financial viability of the business or enterprise. The resultant higher rents, which cannot be afforded by many of those who live in boarding houses, cause a great deal of harm. Because boarding houses are classified as group accommodation, improved safety requirements are applicable, imposing yet another financial burden on the owners of the premises. There is now more pressure than ever for owners or proprietors to find alternative uses for boarding house properties, such as backpacker hostels, self-contained flats, or single-unit resident accommodation. Something must be done.

Waverley Council, with which I was involved for many years and which administers part of my electorate, has always had a good attitude to boarding houses. As the honourable member for Drummoyne indicated, clause 27 of Waverley Council's local environmental plan states that the council has to give approval for the demolition or change of the use of a boarding house. The council also enforces State Environmental Planning Policy 10, dealing with the retention of low-cost, affordable housing. The council has a rate rebate policy with certain conditions attached; it provides a 75 per cent rebate on boarding

houses offering low-cost rental accommodation. Waverley Council, as are other councils, is very concerned about the implications of the new Act.

As an interim measure, Waverley Council established a separate rate level for boarding houses, creating for individual boarding houses a subcategory within the ordinary business rate, striking a rate equivalent to the current residential rate. Waverley Council received legal advice that it was permissible to include such a subcategory; however, other councils received contrary legal advice. The Minister, to his credit, indicated that Waverley Council was acting legally, and certainly did not take any action to prevent the council from creating such a subcategory. It is one of those issues on which legal opinion differs. No-one is going to take legal action against a council for taking that initiative - the possibility of legal action is remote - so it is a matter of having the will to try to resolve the problem, even though the legal system might not appear to be sympathetic. Unfortunately, the Minister's actions in this regard have not been particularly good.

I have had somewhat unsatisfactory correspondence from the responsible Minister on this matter. He sent me a superficial questions and answers paper which did not attempt to solve the problem. He asked whether the new rating system is fair, and the answer is obviously yes. Boarding houses are run for a profit and should, on principle, pay the same rate as other businesses. A block of eight or 12 flats without a strata title, which is leased out, is also a business enterprise. It provides accommodation, but it is a business enterprise for the owner of the block. If that operation were rated as a business enterprise within the council rating structure, tenants would be severely disadvantaged when compared with people in other rental accommodation. The Minister's argument is spurious: he claims that because boarding houses are run as businesses, they should be rated as a business.

According to the Minister, other forms of accommodation are run as a business, but they do not come under the same business category. Boarding houses are a residential operation and should attract residential rates. The Minister claimed that councils, if they desire, could use a short-term measure, such as the Waverley Council adopted, to overcome the problem. The last paragraph of the Minister's letter indicates a leisurely attitude that, in the longer term, he is considering moving an appropriate amendment. Though these are immediate problems, the Minister has no sense of urgency to solve the problems faced by councils and people on low incomes. I take off my hat to the honourable member for Bligh as she has realised the significance of these problems and has introduced this legislation. I am glad that the Government accepts the bill as it will allay many fears in the community.

The Minister is giving further consideration to the option of zoning boarding houses to attract the residential rating. It involves the establishment of a business subcategory, enabling a council to strike a defined subcategory rate for boarding houses. Although this option would be better than the current ambiguous situation, it would still leave the way open for some councils to do nothing to alleviate the difficulties experienced with boarding houses. Although councils such as Waverley, Leichhardt and North Sydney have realised the importance of boarding houses in the social structure of our community, and have encouraged their continuance, other councils believe boarding houses should be phased out from their municipalities. If councils are left with an option to strike a special business subcategory rate, some Sydney councils will choose not to apply such a rate; those councils will force local boarding houses out of existence. This will be detrimental for the people using those facilities. It will also be detrimental to the State Government as it will force a large number of people to seek accommodation assistance through the Department of Housing.

The Minister's proposal is completely unsatisfactory. The proposal championed by the councils to which I have referred, and encompassed in the bill introduced by the honourable member for Bligh, is the proper way to go. I hope that the Minister for Police is correct when he said that the measure will be supported by the Government, and that this matter will pass through the upper House. It will be hypocritical if the bill passes through this House with broad support and dies in the upper House or is not enacted by the time the councils determine their budgets for next year. To some extent the credibility of the Government is on the line. It must ensure that the undertaking given by the Leader of the House is put into full effect. The legislation must be passed by the upper House before this session ends so that councils can ensure that boarding houses will be under the residential rating category for the purposes of next year's budgeting. In that way, that form of business will continue to operate. Another issue which arose from speaking to people who contacted me on this matter was that a number of boarding house operators do not receive council approval and are not picked up

for some time. I received some complaints in this regard from licensed operators.

Mr SPEAKER: Order! The bill is simple and specific, and the honourable member for Coogee should not stray beyond its scope.

Mr E. T. PAGE: I happily support the proposal moved by the honourable member for Bligh, and I hope the Government fulfils its undertaking to ensure that this measure passes through both Houses of the Parliament.

Ms MOORE (Bligh) [9.55], in reply: I welcome the support of the Government and the Opposition for this small, but very important, bill. I thank the Minister for Police for his comments today on behalf of the Minister for Local Government and Co-operatives. I thank also the honourable members for Drummoyne, Hurstville and Coogee for their

comments. I support the comments of the Minister for Police that a significant loss of boarding houses has occurred as they have been turned over to backpacker hostels. I will support the proposed Government amendment. I agree with the honourable members for Drummoyne and Coogee that the Waverley, North Sydney and Leichhardt councils have taken steps to minimise the unintended impact of the Local Government Act to dramatically increase the rates for boarding houses as the category was changed from residential to commercial.

I regret that the South Sydney Council did not take similar action, and in some boarding houses within that municipality in my electorate of Bligh the rating increased by 350 per cent. The continuation of those boarding houses is under great threat. This bill is vital to maintain this important form of housing stock, particularly in the inner city areas. I remind members of the comment in the Burdekin report that a critical shortage of appropriate and affordable housing for the mentally ill was being experienced, and that boarding housing are acting as de facto accommodation for the mentally ill. Therefore, it is important that this bill be dealt with today for many reasons. I, along with other honourable members, appeal to the Government to ensure that the bill passes to the upper House today and is returned to this Chamber. If the legislation is not passed this session, the impact on the provision of this form of housing, so vital for those most disadvantaged in our community, could be threatened.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [9.58]: I move:

Page 2, Schedule 1, lines 17 and 18. Omit all words on those lines, insert instead:

(a) from section 516(1)(a), omit "boarding house, lodging house", insert instead "backpacker hostel".

The amendment will put into effect the intentions I outlined in my contribution to the second reading debate. This amendment affords protection by encouraging people who own and run boarding and lodging houses to not turn them into backpacker hostels. Such conversions would price from the market people who desperately need boarding house and lodging house accommodation.

Ms MOORE (Bligh) [10.00]: I accept the amendment. I think it is very appropriate. There is no doubt that backpacker hostels are part of a thriving tourist industry in the inner city area. Whilst I do not have problems with a thriving tourist industry, I do have problems with the loss of boarding house accommodation for backpacker hostels. It is incumbent upon this Parliament to do everything it can to encourage the

maintenance of boarding house accommodation. As the honourable member for Coogee said, if boarding house accommodation were not available, some of the most disadvantaged people in the community would have to be accommodated by the Government.

During the Bicentenary, when I was first elected as member for Bligh, I spent nearly every weekend in boarding houses in the inner city area with tenancy groups and people like the Brown sisters in an attempt to prevent eviction of very elderly boarding house lodgers who had lived there for many years. They were being thrown out in a quite inhumane way - ejected, their belongings thrown out on the street, and door locks changed. Each room in those boarding houses, which once was the permanent home of an elderly long-term Sydney resident, was to become a room for five or six backpackers visiting Sydney. This is a very important matter for us. We should be doing everything we can to encourage boarding house accommodation being maintained. This amendment will do that.

Mr J. H. MURRAY (Drummoyne) [10.02]: The Opposition supports the amendment for the reasons presented by both the Minister and the honourable member for Bligh.

Amendment agreed to.

Schedule as amended agreed to.

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

PUBLIC HEALTH (SALE OF TOBACCO TO JUVENILES) AMENDMENT BILL

Second Reading

Debate resumed from 24 November.

Mr PHILLIPS (Miranda - Minister for Health) [10.03]: I spent some time last Thursday outlining the New South Wales Government's commitment to reducing the availability of tobacco products to juveniles. The extensive range of programs in place is tackling this important pubic health issue and is having an impact. We know that smoking is the largest single preventable cause of disease and premature death in Australia - some 20,000 in 1991. We know that there is no known safe level of consumption of tobacco products. We know that the cost of tobacco smoking to the Australian community is $6.8 billion a year. And we know that most people take up the habit of smoking before their nineteenth birthday. The Government has raised the legal age for the purchase of tobacco products from 16 to 18. This increase in age was accompanied by a significant increase in maximum fines from $200 previously to $5,000 for the sale of tobacco products to juveniles.

A sign outlining the law must now be displayed at the point of purchase and the community is able to report offenders to the police or the Department of Health. Failure to display the sign can result in a fine of $1,000. The Chief Commissioner for Business Franchise Licences (Tobacco) must be notified of any

conviction under the Act, and cancellation of the licence can be imposed. Lists of tobacco retailers can now be accessed by New South Wales Health to ensure appropriate notification, monitoring and follow-up can occur. The New South Wales health department's tobacco and health strategy has been released recently for community consultation. This strategy recognises the importance of tackling the incidence of tobacco use with a coordinated range of initiatives.

The strategy covers the issues of packaging, labelling, advertising, promotion and sponsorship, availability, costs and taxes, education for the community, passive smoking, and research, monitoring and evaluation. This is not a knee-jerk reaction but a total comprehensive strategy document in which the Government is considering all the armoury available to it, not piecemeal changes of legislation, which is the way some members want to

handle this important issue. This Government and the Department of Health are working with retailers to effect change. The combined effects of publicity and warning notices sent to retailers who had broken the law has been shown to reduce the sale of cigarettes to young people by 70 per cent.

The Department works closely with the Retail Traders Association and the Retail Tobacco Traders Association to promote the implementation of the changed laws. As required under the Public Health Act 1991, public health units are enforcing the law by educating the community and retailers of their responsibilities. The Opposition wishes to hike up fines from $5,000 to $10,000 despite the fact that experience shows this is not effective as a deterrent for chronic offenders. It also flies in the face of decisions taken only recently with the Public Health Act 1991. This knee-jerk reactive piece of legislation does nothing to advance the cause of reducing the incidence of young people taking up smoking. The proposed $10,000 fine is out of all proportion to fines for comparable offences.

For example, the maximum penalty for selling alcohol to juveniles is $2,000. Use of a child to make a child abuse film attracts a $4,000 fine or a two-year gaol sentence. It is clear on the issue we are debating today that the amount of the maximum fine is irrelevant to the penalty to be applied by the court if it does not recognise the offence as serious. If an increase in the penalty is to serve as a genuine objective, it would be more appropriate to set a minimum fine or a series of fines related to specific types of offence. The Department of Health has been asked to investigate the feasibility and implementation of such a system. This review is well advanced. I hope the honourable member for Manly takes that into account as an important initiative about ways of imposing specific minimum fines and a series of fines for offences rather than undertaking expensive and difficult court processes. That review is in place and we hope to have some result in the not too distant future.

To further assist retailers, I have announced the extension of the use of the alcohol proof-of-age card, which proved to be very successful when introduced by the liquor industry. This is incorporated into a Government bill, the Health Legislation (Miscellaneous Amendments) Bill, which was second read last night. Tobacco sponsorship of sporting and cultural events involving children and young adults under the age of 18 ceased in May 1993, while tobacco sponsorship of events that have a major appeal to children and young adults to the age of 25 were eliminated in December 1993.

Under regulations gazetted last year to implement the Tobacco Advertising Prohibition Act 1991 further restrictions were developed concerning point of sale advertising. Tobacco vending machines were the latest on the hit list and they are now restricted to premises holding a liquor licence or to specifically designated staff amenity areas. Vending machines are required to display the same prescribed point of sale notice as retailers are. In response to the lack of compliance by some retailers, the Department of Health has undertaken a number of significant initiatives to ensure compliance. This involves environmental health officers, EHOs, and compliance surveys. Evidence from surveys conducted in a number of areas indicates that these surveys are a highly effective method of increasing retailer compliance.

This initiative strikes at the heart of the issue of compliance and provides the resources to bring the full force of the law down on retailers flouting the law. These enforcement initiatives are supported centrally through the Drug and Alcohol Directorate's management of the Tobacco Information Line, the phone number for which is displayed on the signs at point of sale. A central monitoring database on compliance surveys and investigations undertaken by the EHOs has also been established. New South Wales has led the way in pushing for the development of a national plan of action on juvenile smoking. Officers from around Australia are now drafting this plan. It is clear that this Government continues to demonstrate its commitment to the elimination of the use of tobacco products by people under the age of 18. We are doing this through a consultative approach with retailers, the Department of Health, public health units, police and young people themselves. This strategy is working. It is not a knee-jerk piecemeal approach - a symptom of the bill and the recommendations of the Opposition and the Independents.

I will finish with a few well chosen words of the Deputy Leader of the Opposition in 1991. He said that the community "will have collectively in their hands the power to make public health safe or destroy it - not the

legislation; not the power of the courts; not the penalties that are imposed; not the drafting of the legislation". I could not have said it better myself. The Government has the right strategy in place - a strategy developed through community consultation and based on the most up-to-date research. We will continue to work with the community to reduce the

incidence of smoking and to eliminate the sale of tobacco to juveniles. To support this bill would be to put at risk all the hard-won successes in recent years. There is no evidence that an increase in the maximum penalty would significantly reduce sales to juveniles. Further, under the existing legislation retailers can already have their licences revoked. The bill does not tackle major issues covered in proposed Government legislation dealing with a proof-of-age card - an initiative provided for in legislation introduced into the Parliament last night. For these reasons the Government opposes the bill in its entirety.

Dr MACDONALD (Manly) [10.12]: I am pleased to hear the remarks of the Minister for Health, both this week and last week, highlighting the importance of the issue. Albeit that it has been brought before the House in a private member's bill, we must work together to achieve a result. I do not want the Minister to be too precious about the bill not emanating from his office but from the Opposition spokesperson on health. I want to achieve a benefit for the State on this public health issue that will have an impact on juvenile smoking. Let us put the politics aside to achieve something. I direct those remarks to the Opposition spokesperson as well. I think the bill will pass through the lower House in an amended form. Basically, we are going to have to gut the bill and graft some decent stuff on to it to make it effective, but I think it can be done within the leave of the bill. The bill will then sit in the upper House. The Minister has indicated that he - if I am generous to him - may have some difficulty getting the bill through the upper House, but I would plead with him to make every effort to get it through the upper House.

I also direct comments to the health spokesperson for the Opposition, who basically is not prepared to give leave to the Government to introduce a similar bill in the next day or two. I should expect that a Government bill is more likely to get through the Parliament than an Opposition bill. I wish both sides would stop playing games. Once this bill is passed, there is no reason that leave could not be given to the Government to proceed with its miscellaneous bill, which, though it does not cover one of the amendments I intend to move in relation to proof of age, contains important amendments to various Acts relating to medical practice and public health issues. So let us not stand on territory and be precious about these things. As I said, the Opposition's bill can be improved.

I echo some of the remarks of the Minister on the extent and severity of juvenile smoking. There is an enormously high rate of juvenile smoking in New South Wales and it is a major public health issue. Most recruits to smoking are juniors, so if we can cut off the line of supply to those smokers, the impact will be significant. We know that tobacco causes 30 per cent of all cancers and is the single largest preventable cause of death and disease in the world. A recent article in the *Medical Journal of Australia*, which was submitted by -

Mr Phillips: On a point of order: I reluctantly point out that the honourable member for Manly spoke on the bill on 18 November. If he wants to move amendments, he may do so in Committee.

Mr ACTING-SPEAKER (Mr Rixon): Order! I uphold the point of order.

Dr REFSHAUGE (Marrickville - Deputy Leader of the Opposition) [10.16], in reply: I thank the honourable member for Manly for both his contributions. I am very disappointed with the contribution of the Minister for Health. He has desperately tried to squirm his way out of having done nothing. The Government opposed tooth and nail the Tobacco Advertising Prohibition Bill. It would not allow the children of New South Wales to be protected against tobacco advertising. The Government stands condemned for that, and whatever it does it will never regain any moral ground on the issue of tobacco smoking, particularly in relation to children. The Minister is now saying that the legislation is wonderful and is doing wonderful things. But the Government tried to block it. It sat on its hands and said that tobacco should be able to be sold and advertised - doing the Bronwyn Bishop act. The Government was promoting its mates, the tobacco advertisers and the sponsors of tobacco - the purveyors of this drug of death.

The Minister's hypocrisy is unbelievable. At the time of the passing of the Public Health Bill the Minister said that he did not understand what I said; he did not know what I was talking about; he did not know what it meant. At one stage he said it was rubbish and he did not understand it; now all of a sudden he says they are great pearls of wisdom. Thank you, Minister. It took you a long time to realise how dopey you were then. The Minister also said that there was no point in increasing fines for offences relating to the sale of tobacco to juveniles because they would be totally out of proportion to fines for other offences. But it was the Minister who raised the fines to $5,000. He pointed out that the maximum fine for the offence of selling alcohol to juveniles was only $2,000. Well Minister, you got it wrong then too. What are you really trying to say? The real message is that the Minister has been doing so little he has been forced to be seen to be doing something in the dying days of the Parliament. The Minister is desperately trying to say that the Government cares, yet at every stage he has blocked worthwhile and progressive proposals aimed at stopping cigarette advertising and stopping kids taking up the drug nicotine.

There is no doubt that the bill ought to be dramatically changed. After discussions I have had with the honourable member for Manly and others in

this House, and representatives of organisations which have a very strong record of doing worthwhile things to prevent people becoming addicted to nicotine, I acknowledge the significant and worthwhile amendments proposed. They have been foreshadowed by the honourable member for Manly - and I would expect him to move them - and I concede that they will make the bill much more worth while. I am happy to allow the bill to be amended in that way. The honourable member for Manly asked for bipartisanship. The Opposition has offered that all the time. As soon as he suggested that there were better ways of doing it I said, "Let us look at them. If they are better, let us do it in that way". But the Minister said, "Oh no, no, no. You cannot have that. I have to bring in a bill". He did not bring in a bill about tobacco or proof of age; he proposes the Health Legislation (Miscellaneous Amendments) Bill. This issue is not a matter for miscellaneous amendment; it is a very important issue.

Hansard will show that the Independents have always said that miscellaneous amendments related to issues that are not of major consequence. Miscellaneous amendments are designed to tidy up any loose ends after the drafting of the bill. The Minister tries to pretend that he is really doing something. He has had months and months to respond. His only response has been, "For goodness' sake, don't do it!" The department's reports show that many retailers are selling tobacco to minors. A leading article in the *Medical Journal of Australia* suggests that the average retailer sells tobacco twice a day to minors. *Westlink*, the publication of the department's public health unit in the Orana region reported:

> A recent survey suggests that as many as half of all tobacco retailers in the Orana Far West region may be unlicensed -

we have not heard anything about that from the Minister -

> The Health Promotion Unit views this as unacceptable, and argues that such retailers are more likely to sell tobacco products to juveniles. Action is necessary to better regulate the sale of tobacco, the licensing of retailers and to ensure compliance with the Public Health Act.

The Office of State Revenue issued 20,000 notices to tobacco retailers listed on its files advising them of changes to fines under the Public Health Act. Approximately 3,000 of those notices were returned by post unclaimed. There is a massive problem, and the Minister's response is not to do anything, to talk to people and to be nice. I remind the Minister that he introduced legislation to dramatically increase fines in regard to other offences, but now he says that increased fines do not work and they are not worth having. Despite acknowledging that his own legislation to increase fines was the wrong way to go, he does not introduce any change. What does the Minister really want? All we see is his subterfuge - his twisting and turning in desperation because he has done nothing about this issue and has not stood up for the children of New South Wales.

The issue of children smoking was highlighted at the Child Smoking Forum held by the Medical Benefits Fund of Australia in March 1993. One of the diverse recommendations in the executive summary of that forum called for a major increase in fines for shopkeepers found to be selling cigarettes to minors. This debate is important not just to honourable members in this House but to the experts in the field. The amendments proposed by the honourable member for Manly may be a better way to go. The Minister should not claim that this was not his idea. Of course we should find a better solution but the Minister should not get on his high horse saying this was not what he wanted. This is exactly what the Minister introduced to this House! The Minister referred to the great discrepancy between the fines imposed on those selling alcohol to minors and those using a child to make a child abuse film and the maximum fine proposed in this bill. He should not bring spurious arguments to the House. Either the Minister is trying to fix the problem or he is trying to make cheap political mileage out of this issue. The people of New South Wales know what the Minister has been trying to achieve.

Stopping children taking up smoking is probably the most important public health issue that we face. Things can and ought to be done to achieve an immediate result. This issue should occupy the minds of legislators and those who work in the public health system. Significant legislative changes will achieve dramatic and long-term results for children. Much has been said of the cost to the community of tobacco smoking and how it impacts significantly on our public hospital systems and work-related absences. Economic researchers estimate the cost to the Australian economy of tobacco smoking at billions of dollars. Other evidence from Scandinavian countries shows that smokers may be less of a cost on the health system in that tobacco smokers tend to die quickly rather than suffer long lingering illnesses. I do not promote that as the answer, but it is worth considering. The real issue is, however, that we must try to stop children taking up smoking not for economic reasons; we must do it for health reasons, for the benefit of children and their long-term future, and for the benefit of Australia.

We should not be fighting this problem from the viewpoint of the economic rationalist. There may be side benefits or side costs, but that is irrelevant to the issue. We must stop kids getting hooked on nicotine. As the honourable member for Manly so eloquently pointed out, children who start smoking at a young age will continue smoking. If one is fortunate to survive until the age of 21 without using the dreaded weed, one's chances of taking up smoking are minimal. The issue is to stop children taking up smoking in their formative years. That is the time we can make the biggest difference. If we can pass legislation that stops retailers selling tobacco to juveniles and stops juveniles wanting to buy tobacco, we will have achieved a major advance for society. As the honourable member for Manly said, we should not be aiming at cheap political point scoring in a desperate attempt to achieve some credibility; we
Page 6101
should be aiming at making real change. The Minister said that the Retail Tobacco Traders Association was opposed to this legislation. What a surprise! The mates of the Minister were opposed to this legislation!

I remember very clearly in 1991 that the Retail Tobacco Traders Association put full-page advertisements in the newspapers stating, "Do not vote Labor", because we had the temerity to suggest that we would raise the business franchise tax on tobacco and the Retail Tobacco Traders Association was opposed to it. It was prepared to back the lot opposite - members of the Liberal-National Party - who were quite prepared to say before the election, they would not bring in legislation to ban advertising, they would be hairy-chested economic rationalists and would not increase the business franchise tax on tobacco sales. They were not going to impose the 5¢ that we were proposing to impose. They said, "We do not really care about tobacco. We are quite happy for everybody to" -

Mr SPEAKER: Order! I remind the Deputy Leader of the Opposition of the limit of the latitude that is extended to members speaking in reply. He is referring to matters that were not raised in debate and which are outside the leave of the bill he introduced in this House. I direct him to return to the leave of the bill.

Dr REFSHAUGE: One important issue that the Minister for Health raised was that the Retail Tobacco Traders Association - the friends of the Minister, the Liberal Party and the National Party - was opposed to this legislation. This Government's long history of public health vandalism obviously needs to be exposed. For

the Minister to quote the Retail Tobacco Traders Association as an authority has totally destroyed any credibility that he might have clawed back at this late stage. Experts said that we needed to raise the fine significantly and get tough with those retailers who did not do the right thing. Many retailers - one of whom was referred to by the Minister - are very keen to be responsible and not sell tobacco to minors.

This legislation, which is not Government legislation, will not have an easy passage through Parliament. It was introduced almost a year ago when there were clear calls from experts in the field to double the fine and provide for the cancelling of licences. The child smoking forum held by the Medical Benefits Fund - it was called the MBF forum - has called for an increase in the fines. If the Government had realised that further changes needed to be made it would have said, "Let us bring on this debate. Let us do it in the way that is being suggested by the honourable member for Manly". The Government has had many days during this session of Parliament to do that, but no legislation has been introduced by it, despite the fact that it has said it has been working hard on the issue.

If the Government cannot get its act together when it is running the Parliament it is obvious that it has no credibility on this issue. It will not be long before the Government is no longer in charge of the Parliament, let alone the Treasury benches. This legislation has a very simple, clear message: we, as a Parliament, are saying that selling tobacco to juveniles is not on. The Minister should have the guts to accept the comprehensive amendments proposed by the Opposition. The clear message in the amendment is: if retailers continue to sell tobacco to minors we will keep making it more difficult for them. We will not go away and this issue will not go away. We are committed to it and we will make major changes to the legislation.

We want Government members to be with us on this. We have given them plenty of time to be with us. We have told them that they ought to be with us and we will congratulate them when they are. But if they are not with us we will fight them tooth and nail. We will use every possible and appropriate avenue to dissuade children from taking up cigarette smoking. I am sure commonsense will prevail and that this legislation will be passed in an amended form. I ask the Minister not to get precious about the fact that this legislation was introduced by the Opposition. He should take it up - as he was forced to do with the Tobacco Advertising Prohibition Bill - and introduce it in the upper House so that it is passed this session. I commend the bill.

Question - That this bill be now read a second time - put.

The House divided.

Ayes, 48

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Mr A. S. Aquilina	Mr Mills
Mr J. J. Aquilina	Ms Moore
Mr Bowman	Mr Moss
Mr Clough	Mr J. H. Murray
Mr Crittenden	Mr Nagle
Mr Face	Mr Neilly
Mr Gaudry	Ms Nori
Mr Gibson	Mr E. T. Page
Mrs Grusovin	Mr Price
Mr Harrison	Dr Refshauge
Ms Harrison	Mr Rogan
Mr Hatton	Mr Rumble
Mr Hunter	Mr Scully
Mr Iemma	Mr Shedden
Mr Irwin	Mr Sullivan

Mr Knight	Mr Thompson
Mr Knowles	Mr Whelan
Mr Langton	Mr Yeadon
Mrs Lo Po'	
Mr McBride	*Tellers*,
Dr Macdonald	Mr Beckroge
Mr McManus	Mr Davoren

Noes, 45

Mr Armstrong	Mr W. T. J. Murray
Mr Baird	Mr O'Doherty
Mr Beck	Mr D. L. Page
Mr Blackmore	Mr Peacocke
Mr Causley	Mr Petch
Mrs Chikarovski	Mr Phillips
Mr Cochran	Mr Photios
Mrs Cohen	Mr Richardson
Mr Collins	Mr Rixon
Mr Cruickshank	Mr Schipp
Mr Debnam	Mr Schultz
Mr Downy	Mrs Skinner
Mr Fraser	Mr Small
Mr Glachan	Mr Smith
Mr Hartcher	Mr Souris
Mr Hazzard	Mr Tink
Mr Humpherson	Mr Turner
Dr Kernohan	Mr West
Mr Kinross	Mr Windsor
Mr Longley	Mr Zammit
Ms Machin	*Tellers*,
Mr Merton	Mr Jeffery
Mr Morris	Mr Kerr

Pairs

Mr Carr	Mr Chappell
Mr Doyle	Mr Fahey

Question so resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clause 3

Dr MACDONALD (Manly) [10.43]: I had proposed to move the following amendment circulated in my name:

Page 2, clause 3, lines 9-11. Omit all words on those lines, insert instead:

3. The Public Health Act 1991 is amended by omitting section 59(2) and by inserting instead the following subsections:

(2) It is a defence to a prosecution for an offence under this section if the court is satisfied that the person to whom the tobacco was sold was of or above the age of 14 years and that, before the tobacco was sold, there was produced to the defendant documentary evidence that might reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years.

(3) The Director-General is required:

(a) to take action to enforce compliance with subsection (1) and, in particular, is to act appropriately on any information received in relation to the commission of an offence under that subsection; and

(b) to monitor compliance with subsection (1) on an ongoing basis; and

(c) to institute education programs on an ongoing basis to ensure that persons who sell tobacco are aware of their responsibilities under this section; and

(d) to report on action taken under this section and the results of the monitoring in the report of the Department of Health required to be submitted to the Minister under the Annual Reports (Departments) Act 1985.

(4) For the purposes of subsection (3), the Chief Commissioner for Business Franchise Licences (Tobacco) is, despite section 69 of the Business Franchise Licences (Tobacco) Act 1987, if requested to do so in writing, to provide:

(a) the Director-General with the addresses of premises at which holders of a retailer's licence or a group retailer's licence (within the meaning of that Act) are authorised to carry on tobacco retailing; or

(b) the chief executive officer of an area health board for an area health service with the addresses of premises at which holders of a retailer's licence or a group retailer's licence (within the meaning of that Act) are authorised to carry on tobacco retailing in the area for which the area health service is constituted.

The amendment is designed to delete the proposed increase in penalties, one of the basic purposes of the bill. The proposed increase in the maximum penalty from $5,000 to $10,000 does not have a strong basis. Conventional wisdom tells us that such a measure will not have the desired result. Using the heavy-handed approach of referral to the courts system will not bring about the compliance and reduction in juvenile smoking that are hoped for. There is a case, which I shall not argue now, for reducing fines rather than increasing them. It may be that smaller on-the-spot fines would be a much more effective measure. On-the-spot traffic fines have proved to be much easier to enforce than previous penalties and they avoid entanglement with the court system. Certainly I do not support the proposed doubling of the maximum penalty as set out in the bill.

Mr PHILLIPS (Miranda - Minister for Health) [10.46]: The Government supports the amendment to delete clause 3.

Dr REFSHAUGE (Marrickville - Deputy Leader of the Opposition) [10.46]: Does this amendment relate only to the deletion of clause 3 or to the insertion of the proposed new subsections also?

Mr PHILLIPS (Miranda - Minister for Health) [10.47]: It concerns the fines, the proposal to increase the penalty of 50 penalty units to 100 penalty units.

Dr REFSHAUGE (Marrickville - Deputy Leader of the Opposition) [10.47]: Is the honourable member for Manly moving the rest of the amendment as well?

Dr MACDONALD (Manly) [10.48]: Not yet. In view of the fact that the proposed changes are

contained in one amendment, I shall continue to argue my case. I seek some direction from the Chair on the matter. I have discussed the issue with the Government. My proposed new clause 3 includes three subsections, 59(2), 59(3) and 59(4), of the Public Health Act. I should like to omit from my amendment as moved proposed new sections 59(3) and 59(4) and instead adopt the proposed new subsections set out in the Government's amendment. The first part of my amendment reads as follows:

Page 6103

3. The Public Health Act 1991 is amended by omitting section 59(2) and by inserting instead the following subsections:

(2) It is a defence to a prosecution for an offence under this section if the court is satisfied that the person to whom the tobacco was sold was of or above the age of 14 years and that, before the tobacco was sold, there was produced to the defendant documentary evidence that might reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years.

I should like that amendment to be accepted. The amendment seeks to require proof of age, an aspect that is supported by the Government. Indeed it was a component of the Government's miscellaneous bill, which we had hoped would come before the House. The aim of the amendment is to reduce the impact of juvenile smoking by limiting the opportunity for youth to accept tobacco. As I have already said, there is an alarming increase -

Mr Phillips: On a point of order: I am having some difficulty understanding what amendment is before the House. It seems that the Chair may also be having some difficulty. The honourable member for Manly has moved one amendment but has indicated that he seeks the inclusion of the Government's proposed new subsections, an amendment that was going to be taken into a bill introduced last night. I seek clarification on this point.

The TEMPORARY CHAIRMAN (Mr Glachan): Order! I ask the honourable member for Manly whether the clerks have a copy of his amendments in writing and signed by him.

Dr MACDONALD: You have them. I can change my motion if you like.

Mr Phillips: I am just trying to clarify what is happening.

The TEMPORARY CHAIRMAN (Mr Glachan): Order! As I understand it the aim is to delete clause 3 of the bill and to insert in section 59(1) of the Public Health Act new subsections (2), (3) and (4), pursuant to amendments circulated on a sheet numbered C-075 and on a sheet numbered C-101.

Dr MACDONALD (Manly) [10.52]: I move:

Page 2, clause 3, lines 9-11. Omit all words on those lines, insert instead:

3. The Public Health Act 1991 is amended by omitting section 59(2) and by inserting instead the following subsections:

(2) It is a defence to a prosecution for an offence under this section if the court is satisfied that the person to whom the tobacco was sold was of or above the age of 14 years and that, before the tobacco was sold, there was produced to the defendant documentary evidence that might reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years.

(3) The Director-General is required:

(a) to monitor the incidence of sales of tobacco to persons under the age of 18 years and is to take such action, in relation to those sales, as the Director-General considers appropriate; and

(b) to institute education programs to ensure that persons who sell tobacco are aware of their responsibilities under this section; and

(c) to report on action taken under this section in the report of the Department of Health required to be submitted to the Minister under the Annual Reports (Departments) Act 1985.

(4) For the purposes of the monitoring of sales of tobacco to persons under the age of 18 years, the Chief Commissioner for Business Franchise Licences (Tobacco) is, despite section 69 of the Business Franchise Licences (Tobacco) Act 1987, if requested to do so in writing, to provide:

(a) the Director-General with the addresses of premises at which holders of a retailer's licence or a group retailer's licence (within the meaning of that Act) are authorised to carry on tobacco retailing, and the names of the holders of those licences; or

(b) the Director for the time being of a Public Health Unit under the control and management of an Area Health Service constituted under the Area Health Services Act 1986 or an incorporated hospital under the Public Hospitals Act 1929 (or a person employed in such a Unit) with the addresses of premises at which holders of a retailer's licence or a group retailer's licence (within the mean of that Act) are authorised to carry on tobacco retailing in the area for which the Area Health Service is constituted, or the hospital is located, and the names of the holders of those licences.

To keep it simple, I will address the three issues, because I believe the parties are in unison on this matter. The proof of age card would clearly reduce the opportunities for juveniles to gain access to cigarettes. The average retailer sells about two packets of cigarettes a day to children. The number of children who smoke has dramatically increased. Today's *Sydney Morning Herald* reports that one in four girls under the age of 11 smoke. It is also clear from evidence interstate that if we get tough in regard to proof of age cards and compliance monitoring good results can be achieved. The decline in smoking Australiawide that took place until 1992 has now been reversed, with a recent increase in smoking in New South Wales. The proof of age card works well to control the availability of alcohol to juniors. However, some loopholes need to be considered. It is important that this amendment is carried. A report of the United States Surgeon General entitled "Preventing Tobacco Use Among Young People" refers to the importance of denying juniors access to tobacco products. The major conclusions of this landmark report of the US Department of Health and Human Services are as follow:

Nearly all first use of tobacco occurs before high school graduation; this finding suggests that if adolescents can be kept tobacco-free, most will never start using tobacco.

Most adolescent smokers are addicted to nicotine and report that they want to quit but are unable to do so; they experience relapse rates and withdrawal symptoms similar to those reported by adults.

It is interesting that tobacco is often the first drug used by those young people, who then progress to using alcohol, marijuana and other drugs. Mounting evidence here and overseas shows the importance of denial. The second part of the amendment, which relates to compliance monitoring, is important. The Minister has indicated that this already occurs, but essentially the amendment provides for a stronger role in compliance monitoring by the Department of Health and the Director-General of Health. Evidence shows that it works. I have a report on the experience in Western Australia on which I would like to comment. Since 1917 It has been illegal to sell and supply cigarettes to anyone under the age of 18 in Western Australia.

A survey in 1992 of 230 stores in Perth showed that 89 per cent were prepared to sell cigarettes to children. As a result of that survey the Health Department of Western Australia took a vigorous position and undertook a strong campaign of educating retailers in the community, investigating reports of sales of tobacco to minors, and procuring prosecutions with the assistance of liquor and gaming police and criminal law prosecutors. To date the Western Australian Health Department has prosecuted 17 retailers. That is in contrast to New South Wales,

where prosecutions are almost non-existent. The prosecution of 17 retailers in Western Australia is more than the number of similar prosecutions in all other Australian States combined. The results of each prosecution have been given wide publicity in Western Australia.

The survey was repeated two years later, in 1994, amongst 284 stores by the Australian Council on Smoking and Health, on behalf of the Health Department. The number of retailers prepared to sell cigarettes to children aged 15 years had fallen dramatically to 28 per cent. I acknowledge that the information was supplied to me by Anne Jones, Director of Action on Smoking and Health - ASH. She has been supportive in providing me with information, resources and background material. I record my appreciation for the work done by ASH and the Cancer Council in this area. The other component of my amendment is in regard to providing retail lists. I have adopted the Government's better wording in the amendment it circulated for its bill. It is in relation to access to information. It is hard to find out who is on the list so that appropriate persons - environmental health officers and so on - can properly monitor the outlets. There are many other ways to determine whether illegal sales are taking place. I have been made aware of a smokebusters campaign in which Leichhardt Council has been involved. In that campaign children are being used, on an ethical basis, to test the resolve of outlets in terms of illegal sales.

In summary, what started out as a fairly poorly thought through bill may result, if the amendments are adopted, in an important public health initiative. It recognises that heavy-handed extra fines will not work. On the other hand it does not recognise that the more sophisticated approach of better compliance monitoring, access to retail lists, and a proof of age card, will go some way to address the problem of juvenile smoking. A number of honourable members, including the Minister, said we have a major public health problem on our hands, a preventable disease that we should be tackling at the front end, that is, at the uptake point, amongst children buying illegally from licensed outlets and also unlicensed outlets, which creates an additional problem. I reiterate what I said: let us get the legislation through this House. The legislation could become law if we put aside our political differences. The fact that it emanated from the Opposition should be of no consequence. One of the benefits of private members' days is that we can make use of Parliament's time and get some legislation through. Let us make an impact on this public health issue.

Mr PHILLIPS (Miranda - Minister for Health) [11.00]: We have worked our way through the confusion as to the amendment moved by the honourable member for Manly. He moved an amendment to insert the following subsection:

> (2) It is a defence to a prosecution for an offence under this section if the court is satisfied that the person to whom the tobacco was sold was of or above the age of 14 years and that, before the tobacco was sold, there was produced to the defendant documentary evidence that might reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years.

We have a problem with that amendment because it does not pick up totally what the Government has tried to do in the Health Legislation (Miscellaneous Amendments) Bill (No. 2). The problem is that the proposed amendment to subclause (2) is worded too loosely and would not be as effective as the provisions in the bill introduced by the Government last night. The amendment does not provide the link with the proof of age card provided by the Liquor Act, which was referred to previously.

More importantly, the honourable member for Manly should take into account the Government's concern that the amendment does not define "documentary evidence". There is nothing in the amendment to prevent forms of identification that do not contain a photograph from being accepted. That would make it much easier for young people to provide other types of identification, rather than the stricter form of the proof of age card. The Government's Health Legislation (Miscellaneous Amendments) Bill (No. 2), which was introduced last night, provides for only three types of identification: proof of age card, driver's licence and passport.

The amendment broadens the provision widely to include any documentary evidence. That is the Government's major problem with the amendment, so it must oppose it. As to the other amendments, we consider that some of the provisions are not necessary, such as the provision that the director-general fulfil his requirements under the Act. The Government will not oppose any of the other amendments, although it

considers that some of them are not necessary. The honourable member for Manly moved an amendment to provide for the following:

Page 6105

(3) The Director-General is required:

(a) to monitor the incidence of sales of tobacco to persons under the age of 18 years and is to take such action, in relation to those sales, as the Director-General considers appropriate; and

(b) to institute education programs to ensure that persons who sell tobacco are aware of their responsibilities under this section; and

(c) to report on action taken under this section in the report of the Department of Health required to be submitted to the Minister under the Annual Reports (Departments) Act 1985.

(4) For the purposes of the monitoring of sales of tobacco to persons under the age of 18 years, the Chief Commissioner for Business Franchise Licences (Tobacco).

The Government does not feel strongly enough about the amendments to oppose them, but will oppose the main amendment because it is much weaker than the provision in the bill introduced last night by the Government. The provisions in the Government's bill are comprehensive, and they are available to be passed by both Houses. Reluctantly, I must oppose the amendment.

Dr REFSHAUGE (Marrickville - Deputy Leader of the Opposition) [11.05]: I move:

That the amendment be amended by omitting the following:

(2) It is a defence to a prosecution for an offence under this section if the court is satisfied that the person to whom the tobacco was sold was of or above the age of 14 years and that, before the tobacco was sold, there was produced to the defendant documentary evidence that might reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years.

and inserting instead:

(2) It is a defence to a prosecution for an offence under this section if the court is satisfied that:

(a) the person to whom the tobacco was sold was over the age of 14 years at the time of the sale; and

(b) at or before the time of the sale there was produced to the defendant approved documentary evidence that might reasonably be accepted as applying to the person to whom the tobacco was sold and as proving that the person was at least 18 years of age.

(3) An environmental health officer may request a person who is on or near premises on which tobacco is sold in the course of a business and whom the officer reasonably suspects of being under the age of 18 years and of having been sold tobacco on those premises to state his or her full name and residential address and produce evidence of his or her age. Failure to comply with such a request is not an offence.

(4) An environmental health officer is an authorised person for the purposes of section 152A (Confiscation of proof of age cards) of the Liquor Act 1982.

(5) In this section:

"approved documentary evidence" means evidence that is of a kind prescribed by the regulations for the purposes of section 117E (Reasonable evidence of age) of the Liquor Act 1982.

(6) Section 59, as amended by this Act, does not apply in respect of a prosecution for an offence under that section alleged to have been committed before the commencement of the amendment. Section 59, as in force immediately before the commencement of that amendment, continues to apply in respect of any such proceedings as if the amendment had not been made.

(7) The Director-General is required:

(a) to monitor the incidence of sales of tobacco to persons under the age of 18 years and is to take such action, in relation to those sales, as the Director-General considers appropriate; and

(b) to institute education programs to ensure that persons who sell tobacco are aware of their responsibilities under this section; and

(c) to report on action taken under this section in the report of the Department of Health required to be submitted to the Minister under the Annual Reports (Departments) Act 1985.

(8) For the purposes of the monitoring of sales of tobacco to persons under the age of 18 years, the Chief Commissioner for Business Franchise Licences (Tobacco) is, despite section 69 of the Business Franchise Licences (Tobacco) Act 1987, if requested to do so in writing, to provide:

(a) the Director-General with the addresses of premises at which holders of a retailer's licence or a group retailer's licence (within the meaning of that Act) are authorised to carry on tobacco retailing, and the names of the holders of those licences; or

(b) the Director for the time being of a Public Health Unit under the control and management of an Area Health Service constituted under the Area Health Services Act 1986 or an incorporated hospital under the Public Hospitals Act 1929 (or a person employed in such a Unit) with the addresses of premises at which holders of a retailer's licence or a group retailer's licence (within the meaning of that Act) are authorised to carry on tobacco retailing in the area for which the Area Health Service is constituted, or the hospital is located, and the names of the holders of those licences.

I am sure that the Minister will not only support the amended amendment, but that he will be constructive enough to introduce other minor changes he would have introduced in full debate, as opposed to minor amendments in omnibus miscellaneous amendment legislation. We need to be much tougher, but in a more effective way. The use of proof of age cards has gained widespread respect in the liquor industry, among parents and among kids. It is not a perfect system - the cards have been abused - but it is one that is worthy of emulation in an endeavour to stop children from being sold cigarettes. It is also important that the director-general and area chief executive officers have access to information relating to the sale of tobacco to under-age people.

It is also important that the Minister, in his annual report, summarise any action taken. If we are to put in a significant effort on a whole range of legislative matters relating to tobacco advertising and tobacco sales to juveniles, there should be a clear message to departmental heads that it is something that Parliament and, therefore, the public are interested in. There may be other ways of ensuring that such things are reported in annual reports but, from my perusal of such reports, very little is reported in one year and further progress reported the

following year, except the bottom line of how much money was spent. Annual reports should be much more than financial statements. There should be a responsibility for departments to report on their activities. This legislation could provide that the head of the department report on how the legislation is working - a clear indication that this is an significant issue on which to report. It is important to tell the public what the department is doing, how it is doing it, whether it is successful, or whether it is failing. It is important also to make suggestions as to possible changes to the operation of the legislation.

If the Government supports the amendments, as it appears it will, there will an attempt at last to have some degree of bipartisanship. I welcome the efforts of the honourable member for Manly in making much more

constructive use of the bill than the broad framework provided. His work and the work of those assisting him should be acknowledged in this debate as it has been incredibly valuable. This bill will allow New South Wales to be up with the leaders in the field. There is still a fair way to go, but this legislation brings us a step forward. I thank all those involved in getting the legislation at least to this stage.

Dr MACDONALD (Manly) [11.13]: We now have before us an amendment to the bill that removes the penalty issue and re-inserts three issues that I mentioned before: proof of age, compliance monitoring, and retailers - words determined by the Minister's staff and by the Department of Health. I call on the Minister to use his best endeavours to ensure the passage of this legislation through the upper House. I do not want to be caught up in the antagonism between the two sides of politics, but to achieve a good outcome for public health. I am extremely disappointed with the spokesperson for the Opposition, the honourable member for Marrickville, who would not give leave to the Government to bring on its Health Legislation (Miscellaneous Amendments) Bill (No. 2). The honourable member says that he is doing it on the basis that the miscellaneous bill should not include a major component, such as proof of age, but I do not believe he is being entirely honest. He is blocking the bill and forcing the Government on to the back foot. That is how the game is played in this place. Let us get this bill through and into the upper House. Both sides of politics can take the bouquets and make their victory speeches, because this legislation will be for the benefit of the health of the people of this State.

Mr PHILLIPS (Miranda - Minister for Health) [11.15]: Games are being played in this House. Legislation that has been negotiated for a long time with various departments, including negotiations relating to the budgetary processes, and discussions with the honourable member for Manly, is now before this House. The Public Health (Sale of Tobacco to Juveniles) Amendment Bill 1993, introduced by the Leader of the Opposition, has been totally wiped out and dismissed for the absolute arrant nonsense that it is. The Opposition picked out some of the clauses of the Health Legislation (Miscellaneous Amendments) Bill (No. 2) that was introduced to this House last night. That bill, properly drafted by legal officers to ensure there are no loopholes, could be debated tomorrow, but the Opposition has done a cut-and-paste job with it and introduced it bit by bit into the legislation we are now debating.

I know that the honourable member for South Coast and others want to deal with sensible and considered legislation. But why must it be done this way today? Because the Deputy Leader of the Opposition, the honourable member for Marrickville, on behalf of the Opposition, will not give the Government leave to do it tomorrow. The Government cannot do it tomorrow, it will have to wait five days. As Parliament is to rise tomorrow, the miscellaneous amendments bill cannot be dealt with, unless the Opposition grants leave. The Government will have to include the provisions in the Opposition's bill, or not have them at all. It is a stupid way of dealing with this type of legislation and I find it disconcerting. The amendment is:

> (2) It is a defence to a prosecution for an offence under subsection (1) if the court is satisfied that:
>
> (a) the person to whom the tobacco was sold was over the age of 14 years at the time of the sale; and
>
> (b) at or before the time of the sale there was produced to the defendant approved documentary evidence that might reasonably be accepted as applying to the person to whom the tobacco was sold and as proving that the person was at least 18 years of age.
>
> (3) An environmental health officer may request a person who is on or near premises on which tobacco is sold in the course of a business and whom the officer reasonably suspects of being under the age of 18 years and of having been sold tobacco on those premises to state his or her full name and residential address and produce evidence of his or her age. Failure to comply with such a request is not an offence.

Unfortunately, the amendment moved by the honourable member related to an early draft of the Government's original bill. The Attorney General has strongly objected to the requirement that young people, on the request of the police, produce evidence of their age, full name and residential address. I am not a legal person, but I would have thought, from my experience of this place, that there are grave concerns about allowing police and others to insist on production of proof of age. The bill becomes that of the Deputy Leader of the Opposition. I will do what I can to have it adopted by the upper House, but there may be some difficulties. I am not a legal

person, but I would have thought, from my experience of this place, that there are grave concerns about allowing police and others to insist on production of proof of age. The bill becomes that of the Deputy Leader of the Opposition. I will do what I can to have it adopted by the upper House, but there may be some difficulties.

I hope the Government gets some support from the Deputy Leader of the Opposition to allow the Government's bill to be properly debated tomorrow. If there is no messing around, the bill can be flipped upstairs, without amendments, and dealt with. Though this bill was commenced by someone else, I

am the Minister responsible for its passage through this House and it is with great reluctance that I support its progress to the upper House. The passage of the bill will do a number of things. First, the nonsense will be gutted from the bill as first proposed by the Deputy Leader of the Opposition; his bill is totally wiped out. Second, in the main these amendments mirror the miscellaneous amendment provisions introduced by the Government in this House last night. There are concerns that the amendments are disjointed and not all-encompassing, but I hope those problems can be overcome. Third, I hope that the way the Deputy Leader of the Opposition deals with the bill in the community will be a clear judgment of his integrity and honesty.

The honourable member for Manly has demonstrated his good faith so far as these provisions are concerned. There is 100 per cent good faith on my part and that of the Government to have the bill passed so that further action can be taken to add to the good work already done in this area. The Deputy Leader of the Opposition has been playing games. Although this bill is in his name, his original bill has been gutted. What constitutes this bill has been produced by the Government, with some amendments by the honourable member for Manly. This bill has nothing to do with that originally proposed by the Deputy Leader of the Opposition. The community, especially those in the anti-tobacco lobby, will judge him on his nonsense and the games he has played in this House today. The Government will reluctantly support the amendments - to the extent they can be understood.

Dr REFSHAUGE (Marrickville - Deputy Leader of the Opposition) [11.22]: I am amazed at the hypocrisy of the Minister. He said he wanted to deal with the measure on a bipartisan basis, but he did not even talk to me about it. He has never talked to me about it, but he sent down to my office amendments that he did not even bring into this House. What hypocrisy! We have been waiting for this. The Minister has been talking to the honourable member for Manly, telling him that he wanted to use this legislation as a vehicle to bring in worthwhile changes. The Minister has had almost 12 months to do that, but at the last minute he brought in miscellaneous amendments, not his own legislation. The latter course would have been quite acceptable. The Opposition would have said, "Yes, let us do it as a full bill and let it go through". But the Minister is trying to hide it by burying it in some miscellaneous amendments.

The Minister is the one who has been playing games, trying to muck it around, and not playing it true. He is the one who will have to cop that. The Government has given a clear message about the way it wants to go. I am happy to facilitate whatever can be done, if minor drafting changes are needed, so that the bill is acceptable to the upper House. That is a worthwhile approach and I will support it.

Mr PHILLIPS (Miranda - Minister for Health) [11.25]: I have the opportunity to speak for the next six minutes, stop this stupidity and kill this debate. That would give this House an option tomorrow to consider a sensible bill that will have been properly drafted by Parliamentary Counsel, checked out by legal people in the department, and fully supported by the Drug and Alcohol Directorate of the department. That is what the Government wants. But I will not play games. I will allow the bill to pass through this House because I want to do everything possible to ensure that we get on with the job. But if that cannot be done, I ask the Deputy Leader of the Opposition to give serious consideration to allowing us to get it right tomorrow with the amendments before this House in another bill. The Government will reluctantly support these amendments.

Amendment of amendment agreed to.

Amendment as amended agreed to.

Clause as amended agreed to.

Bill reported from Committee with an amendment, and report adopted.

BUSINESS OF THE HOUSE

Order of Business: Suspension of Standing and Sessional Orders

Motion, by leave, by Mr West agreed to:

That Standing and Sessional Orders be suspended to allow the consideration of General Business Orders of the Day (for Bills) to continue until 12.15 p.m. this day.

SYDNEY AIRPORT THIRD RUNWAY

Standing Order 54: Tabling of Papers

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [11.29]: I seek leave to move a motion to extend the tabling date in the resolution of the House on 30 November for return of papers under Standing Order 54.

Leave not granted.

LAKE MACQUARIE STATE RECREATION AREA BILL

In Committee

Consideration resumed from 17 November.

Clause 3

Mr SOURIS (Upper Hunter - Minister for Land and Water Conservation) [11.31]: I move:

No. 1 Page 2, clause 3, lines 10 and 11. Omit "of National Parks and Wildlife", insert instead ", Department of Conservation and Land Management".

The purpose of this amendment and further proposed amendments is to create uniformity between the management of State recreation areas that are presently managed by the Department of Conservation and Land Management. This proposal is different from the existing arrangements for all of our State recreation areas and will place this State recreation area under the management of the National Parks and
Page 6108
Wildlife Service. Essentially this proposed State recreation area will be used for and will be subject to recreational use rather as a reserve of high conservation value - more in the form of a national park or wilderness area. Consequently, there is no natural place for the operation of this recreation area under the management of the National Parks and Wildlife Service. The Minister for the Environment told the House that the National Parks and Wildlife Service does not believe these lands are suitable for its administration under the division of functions arrangements between the National Parks and Wildlife Service and the Department of Conservation and Land Management. The Minister for the Environment administers SRAs of the type contemplated by the bill. This amendment will implement that arrangement. I propose this amendment to restore normality to the operation of all State recreation areas.

Mr HUNTER (Lake Macquarie) [11.34]: The Opposition opposes the amendment. The amendment proposes to take control of the proposed Lake Macquarie State recreation area away from the National Parks and Wildlife Service and give it to the Department of Conservation and Land Management. I correct the Minister on one issue: there are more State recreation areas currently under the control of the National Parks and Wildlife Service than there are under the Department of Conservation and Land Management. The National Party may consider that all State recreation areas should be under the control of the National Party Minister and the Department of Conservation and Land Management, but that is certainly not the wish of the people of Lake Macquarie, the honourable member for Lake Macquarie or the Opposition. The amendment is opposed.

Mr HARTCHER (Gosford - Minister for the Environment) [11.35]: What is at stake is the fundamental concept of land allocation in New South Wales. I do not pretend that the concept of land allocation in New South Wales succeeds or fails with this amendment, but the principle is significant. The principle is that the National Parks and Wildlife Service is the State's primary conservation agency for nature. It is a specialised body set up by the people of New South Wales through this Parliament and the Government to protect nature in this State. It is not a body established or funded by any party to look after hybrid areas that have been created for purely partisan political purposes such as this proposal by the honourable member for Lake Macquarie. The rationalisation by the Government of land allocations is sensible and successful. Some areas are suitable for residential development, some are suitable for mineral development, some are suitable for forestry, some are suitable for public recreation and some are suitable for nature conservation.

The National Parks and Wildlife Service has studied this matter and has produced a report in relation to it. It does not regard the area as falling into the category referred to in the charter contained in the National Parks and Wildlife Act, which the Parliament passed in 1974. The honourable member is trying to impose on the National Parks and Wildlife Service obligations that are outside its charter and responsibility. The service has made it clear and I have made it clear to the Parliament, but the honourable member for Lake Macquarie still deliberately ignores everything simply for his own partisan political purposes. He attacks the scientific credibility of the service and undermines the foundations of proper land allocation and management of this State. Having heard my eloquent and passionate argument to the Parliament, as the honourable member for Moorebank will attest, the honourable member for Lake Macquarie nonetheless persists with his claim that the National Parks and Wildlife Service should somehow be involved in his hybrid organisation.

These lands are not going to the National Parks and Wildlife Service, they are not being dedicated under the National Parks and Wildlife Act, yet somehow the honourable member for Lake Macquarie expects me as Minister responsible for the National Parks and Wildlife Service to be involved in its operation. For what purpose? The lands are not nature conservation lands; they will be public recreation lands, as the bill provides. The honourable member seeks to appease various interest groups by introducing this bill. The amendment moved by the Minister for Land and Water Conservation is eminently sensible and practicable. It says, "If we are to have this bill - the House has voted on the second reading - at least adopt a rational structure". The proposal is to at least have a rational structure for the administration of the land. The amendment does not try to defeat the purpose of the bill. It suggests that the appropriate body to be involved - because there is no management in a particular organisation such as this - is the Department of Conservation and Land Management.

The Department of Conservation and Land Management is a specialised agency which knows how to look after recreational land. It is an agency that has been involved for almost 200 years in Crown land planning in this State. In fact, it is the original agency. The National Parks and Wildlife Service is an offshoot - a daughter almost - of the Department of Lands, established by that great environmentalist and founder of the National Parks and Wildlife Service, Tom Lewis - a man who did more for nature conservation in this State than any Minister until Tim Moore and the Hon. Chris Hartcher came on to the scene.

[*Interruption*]

The honourable member for Swansea might find that amusing, but it is not. I said it in all seriousness. The Department of Conservation and Land Management looks after coastal recreational areas and about 34,000

reserves in New South Wales. It has staff at Maitland who will be able to look after this

facility. I will not increase the staff of the National Parks and Wildlife Service to look after this facility. I will not put a single cent into it. It is not land that is covered by the National Parks and Wildlife Act and I do not believe it is appropriate, having received advice from the National Parks and Wildlife Service on this matter, that moneys allocated by the Parliament for nature conservation in this State should be expended in such a way. The National Parks and Wildlife Service does not support the establishment of this trust. This land does not come under the National Parks and Wildlife Service. If this ridiculous legislation is ever passed, the only appropriate agency to be involved in its management is the Department of Conservation and Land Management.

Mr KNOWLES (Moorebank) [11.42]: Self-praise is absolutely no praise. It is a joke that the Minister for the Environment has compared himself to Tom Lewis and subsequent Ministers for the environment, in particular the Hon. Tim Moore. This amendment proposes that responsibility for land around Lake Macquarie be transferred from the National Parks and Wildlife Service to the Department of Conservation and Land Management. Clearly, there are arguments for and against that proposition. However, it is important to note that the National Parks and Wildlife Service has a much broader charter than that just described by the Minister for the Environment. We can determine a good or a bad Minister by the way in which he takes control of his administration.

The Minister should listen to tapes of this morning's Andrew Olle show, during which the Director-General of the National Parks and Wildlife Service, Ms Kruk - with whom I have had the pleasure of working - made quite contrary statements to the one the Minister just made. Ms Kruk made the point that the National Parks and Wildlife Service had a much broader charter than the scientific analysis of land under its administration. She referred to the need to provide recreational activities and barbecue facilities for families and children. It is entirely appropriate for the National Parks and Wildlife Service to administer this land. Once again this very weak Minister for the Environment has been overridden by the National Party lobby, the land development lobby and the Minister for Land and Water Conservation.

Ms Kruk, in her interview with Andrew Olle this morning, made it very clear that she was more than satisfied with the resources allocated to her agency to perform necessary work. This morning the Minister said, "Not one cent will be spent on this land should it be brought under the administration of the National Parks and Wildlife Service". That is an outrage. It is a total abrogation of responsibility by this Government - one which it will live to regret. I support the amendments to be moved by the honourable member for Lake Macquarie, who has worked very hard on this bill. Honourable members should support his amendments. The Government's proposals are an absolute farce.

Question - That the amendment be agreed to - put.

The Committee divided.

Ayes, 47

Mr Armstrong	Mr Morris
Mr Baird	Mr W. T. J. Murray
Mr Beck	Mr O'Doherty
Mr Blackmore	Mr D. L. Page
Mr Causley	Mr Peacocke
Mr Chappell	Mr Petch
Mrs Chikarovski	Mr Phillips
Mr Cochran	Mr Photios
Mrs Cohen	Mr Richardson
Mr Collins	Mr Rozzoli
Mr Cruickshank	Mr Schipp
Mr Debnam	Mr Schultz

Mr Downy	Mrs Skinner
Mr Fraser	Mr Small
Mr Glachan	Mr Smith
Mr Griffiths	Mr Souris
Mr Hartcher	Mr Tink
Mr Hazzard	Mr Turner
Mr Humpherson	Mr West
Dr Kernohan	Mr Windsor
Mr Kinross	Mr Zammit
Mr Longley	*Tellers*,
Ms Machin	Mr Jeffery
Mr Merton	Mr Kerr

Noes, 49

Ms Allan	Mr McManus
Mr Amery	Mr Markham
Mr Anderson	Mr Martin
Mr A. S. Aquilina	Ms Meagher
Mr J. J. Aquilina	Mr Mills
Mr Bowman	Ms Moore
Mr Carr	Mr Moss
Mr Clough	Mr J. H. Murray
Mr Crittenden	Mr Nagle
Mr Face	Mr Neilly
Mr Gaudry	Ms Nori
Mr Gibson	Mr E. T. Page
Mrs Grusovin	Mr Price
Mr Harrison	Dr Refshauge
Ms Harrison	Mr Rogan
Mr Hatton	Mr Rumble
Mr Hunter	Mr Scully
Mr Iemma	Mr Shedden
Mr Irwin	Mr Sullivan
Mr Knight	Mr Thompson
Mr Knowles	Mr Whelan
Mr Langton	Mr Yeadon
Mrs Lo Po'	*Tellers*,
Mr McBride	Mr Beckroge
Dr Macdonald	Mr Davoren

Pair

Mr Fahey	Mr Doyle

Question so resolved in the negative.

Amendment negatived.

Page 6110

Clause 3

Amendment by Mr Hunter agreed to:

No. 1 Page 2, clause 3. After line 11, insert:

"Minister" means the Minister for the Environment;

Mr SOURIS (Upper Hunter - Minister for Land and Water Conservation) [11.52]: I move:

No. 3 Page 2, clause 3, lines 12-16. Omit all words on those lines, insert instead:

"the map" means the series of maps marked "Lake Macquarie State Recreation Area Act 1993" presented to the Speaker of the Legislative Assembly by the Minister during consideration of the Bill for this Act by the Legislative Assembly or by a Committee of the Legislative Assembly;

There are three aspects to the amendment. First, the Morisset Hospital site is involved. The site is affected by Aboriginal land claims made under the Aboriginal Land Rights Act 1983 that are still under investigation and have not been determined. It would be an assault on the Aboriginal Land Rights Act and the process under that Act for the land to be dealt with by this legislation before the claims are determined. Second, the Wangi Wangi south site must be amended because I have granted Aboriginal land claims under part of that area and the appropriation of private land would be a bad precedent. In other words, the bill as it stands would appropriate private land, on account of my having granted Aboriginal land claims some four or five weeks ago. I have made that information available. Third, the Chain Valley site is affected. From a coalmining point of view, there are significant concerns about the Chain Valley Bay area. My colleague the Minister for Mines will speak briefly on that aspect. The Awaba site is held by the Department of Housing and should not be included, as it is needed for housing.

Mr HUNTER (Lake Macquarie) [11.55]: The Opposition opposes the Government's amendments. An examination of the maps provided by the Minister to show the areas that he wishes to delete makes it clear that the proposed Lake Macquarie State recreation area would be reduced from some 2,000 hectares to a miserly 200 hectares. The Minister referred to the Morisset Hospital site. At present the land concerned is a Crown reserve and a flora and fauna reserve under the control, as trustee, of the Department of Health. There is an Aboriginal land claim to the land. I have visited the site with the shadow minister for Aboriginal affairs and the local land council. Further into the Committee stage I intend to move an amendment that would provide for any undecided land claims to be heard after the passage of the bill. An amendment in that respect would deal with the Minister's argument.

It has been common knowledge for many years that the Department of Housing will not be developing all of its site on the land at Awaba Bay near Bolton Point and Marmong Point. The department would like to carry out development on a very small area of that site, but that proposal has been opposed by all local residents and the local council. The Minister also referred to land at Chain Valley Bay as a desirable location for mining. I point out that mining activities can be undertaken in a State recreation area, and the bill would not affect mining in that area.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [11.58]: I oppose the inclusion of the area known as Chain Valley Bay in the State recreation area. I realise that designation of land as a State recreation area does not necessarily mean that mining cannot take place on that land. But I remind honourable members that on a number of occasions the honourable member for Lake Macquarie has spoken in the House and has made representations to me about subsidence. It is obvious to me that inclusion of that land in a State recreation area would deliver the message that we were opposed to mining, as the honourable member for Lake Macquarie supports designation when problems with mine subsidence are experienced. The area in question has 25 million tonnes of coal. It is the remaining resource of the Walla and Great Northern seam, the prime thermal coal resource of the Newcastle coal front.

It is fairly worrying to the Government, and I am sure that it would be of concern to the coalmining unions, that people of the area might infer that the area could be reserved. That issue should be of great concern to the

House. The Opposition has long ago forsaken its union base. The mining unions tell me that they trust me and are terrified about the prospect of the Leader of the Opposition and the honourable member for Blacktown having some control. Recently the Leader of the Opposition has been trying to hide the honourable member for Blacktown. She has been very quiet. Honourable members should recall, however, her famous speech to the Wilderness Society, in which she revealed her agenda. I am somewhat concerned that the honourable member for Blacktown may have Opposition members under her control. That is the great risk to the mining industry of New South Wales. While designation of the area as State recreation area would not specifically exclude mining activities, the people of the area would infer that it did. The House should reject inclusion of that area because its inclusion would have great repercussions for the coalmining industry.

Mr KNOWLES (Moorebank) [11.59]: The Government and the honourable member for Lake Macquarie agree on at least three areas - Wangi Wangi south, Wangi Wangi Point and Point Wolstoncroft. The Labor Party does not agree that the land at Awaba Bay is suitable for housing. It is much more valuable as a recreation area, as proposed in the bill. A further amendment, to be moved by the honourable member for Lake Macquarie, will deal with the issues already raised by the Minister for Land and Water Conservation. I would like to correct a slight error made in the second reading debate. The Minister for the Environment accused me of never having been to Wangi Wangi. In fact, I think he said I would not know where it was. I responded that my parents live at Wangi Wangi and that I have been there many times. To clarify the record, my parents own a holiday cottage at Wangi Wangi and spend part of their year there.

Amendment negatived.

Page 6111

Mr SOURIS (Upper Hunter - Minister for Land and Water Conservation) [12.01]: I move:

No. 4 Page 2, clause 3, line 17. Omit all words on that line, insert instead:

"trustees" mean the trustees of the Lake Macquarie State Recreation Area appointed under the National Parks and Wildlife Act 1974.

Mr HUNTER (Lake Macquarie) [12.01]: If this amendment is agreed to, the management trust that I have proposed for the State recreation area will not proceed. I proposed - and I see the Minister is proposing a further amendment to eliminate my proposal - a management trust for the Lake Macquarie State Recreation Area consisting of two councillors of Lake Macquarie City Council, one councillor of Wyong Council, the Manager of the Point Wolstoncroft Sport and Recreation Centre, the Chairman of the Total Catchment Management Committee of Lake Macquarie, a representative from an environment group, a representative from the Peninsula Advisory Committee, and representatives from local Aboriginal land councils and the Aboriginal traditional custodian.

If the amendment is agreed to it will eliminate the section relating to trusts and allow the Minister, if he wishes, to appoint a trust of his own choosing or not appoint a trust at all. I remind the Committee that the report of the Legislation Committee upon the National Parks and Wildlife (State Conservation Parks) Amendment Bills dated October 1992 noted the strong community support for local State recreation area trusts, which had been discontinued by the National Parks and Wildlife Service and said the committee believed these trusts should be reinstated. Trusts do not currently manage National Parks and Wildlife Service State recreation areas. If the amendment were agreed to, that would occur in Lake Macquarie. The community, the local council, and the local Aboriginal community should be involved in the running of the Lake Macquarie park. The Opposition opposes the amendment.

Amendment negatived.

Clause as amended agreed to.

Clause 7

Mr HUNTER (Lake Macquarie) [12.04]: I move:

No. 2 Page 3, clause 7. After line 24, insert:

(2) The revocation of the present dedication, reservation or vesting and the subsequent reservation of land under this Act is subject to any native title rights and interests existing in relation to the land immediately before the revocation of the present reservation, dedication or vesting and does not extinguish or impair them.

(3) Any claim under Part 6 of the Aboriginal Land Rights Act 1983 made before the commencement of this Act in respect of lands reserved under this Act that were claimable Crown lands when the claim was made may be dealt with under the Aboriginal Land Rights Act 1983, and if the claim is granted any action may be taken in respect of the lands under that Act, as if those lands had not been so reserved.

(4) In this section:

"claimable Crown lands" has the same meaning as it has in section 36 of the Aboriginal Land Rights Act 1983;

"native title rights and interests" has the same meaning as it has in the Native Title Act 1993 of the Commonwealth.

If the bill is passed through the Parliament and the State recreation area is created, it will not extinguish any native title rights. The amendment provides that any Aboriginal land claims on any land within the park would be able to be heard and a decision made on that land, even though the bill has passed through the Parliament. The amendment seeks to maintain native title rights and to maintain the rights of the local Aboriginal land council, as a land claim on the Morisset Hospital site has not been determined by the Minister. If the amendment is passed it will allow the Minister to determine that land claim on the Morisset Hospital site.

Mr SOURIS (Upper Hunter - Minister for Land and Water Conservation) [12.05]: This amendment attempts to preserve any native title interests that might exist in the land. However, the provision does not take into account the operation of the Commonwealth Native Title Act. The mere inclusion of words to the effect that actions undertaken by the bill will not extinguish or affect native title or are undertaken subject to native title does not make this bill a permissible future Act for the purposes of Commonwealth legislation. Indeed, the legislation may also be in conflict with the Commonwealth racial discrimination legislation.

Amendment agreed to.

Clause as amended agreed to.

Clause 9

Mr SOURIS (Upper Hunter - Minister for Land and Water Conservation) [12.06]: I move:

No. 5 Pages 3 and 4, clause 9, lines 29-34 on page 3 and lines 1-17 on page 4. Omit all words on those lines, insert instead:

Former trustees of Lake Macquarie State Recreation Area

9. On the reservation of land under this Act as Lake Macquarie State Recreation Area, any trustee of the land or part of the land holding office under the Crown Lands Act 1989 or under the National Parks and Wildlife Act 1974 ceases to hold that office in respect of the land or part of the land.

Amendment negatived.

Clause 11

Amendments, by leave, by Mr Hunter agreed to:

No. 3 Page 5, clause 11(2), line 5. Omit "Director-General", insert instead "Minister".

No. 4 Page 5, clause 11(3), line 8. Omit "Director-General", insert instead "Minister".

Clause as amended agreed to.

Schedule 1

Mr SOURIS (Upper Hunter - Minister for Land and Water Conservation) [12.08], by leave: I move the following amendments in globo:

No. 6 Page 7, Schedule 1(1), lines 4-11. Omit all words on those lines, insert instead:

1. Sections 47G-47N and Part 5 of, and Schedule 9A to, the National Parks and Wildlife Act 1974 apply to land reserved as Lake Macquarie State Recreation Area by this Act in the same way as those provisions apply to a State recreation area reserved by notification under section 47B(1) of that Act.

No. 7 Page 7, Schedule 1(3), lines 26 and 27. Omit "administering the National Parks and Wildlife Act 1974".

No. 8 Page 7, Schedule 1(3), lines 28 and 29. Omit "administering the National Parks and Wildlife Act 1974".

Amendments negatived.

Schedule agreed to.

Schedule 2

Mr SOURIS (Upper Hunter - Minister for Land and Water Conservation) [12.09]: I move:

No. 9 Pages 8 and 9, Schedule 2, lines 5-28 on page 8 and lines 1-14 on page 9. Omit all words on those lines.

Amendment negatived.

Amendment by Mr Hunter agreed to:

No. 5 Page 8, Schedule 2, clause 3, lines 14-17. Omit all words on those lines.

Schedule as amended agreed to.

Bill reported from Committee with amendments, and report adopted.

THREATENED SPECIES CONSERVATION BILL

Second Reading

Debate called on, and adjourned on motion by Mr West.

PUBLIC ACCOUNTS COMMITTEE REFERRAL ON HOSPITAL FINANCIAL MANAGEMENT

Debate called on, and adjourned on motion by Mr Beckroge.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Investigation of Allegations of Corruption Concerning Police and Paedophile Activity

Debate resumed from 27 October.

Motion by Mr Whelan, by leave, agreed to:

That Standing and Sessional Orders be suspended to allow the honourable member for Ashfield to speak again to the question for a period of 20 minutes.

Mr WHELAN (Ashfield) [12.14]: On 27 October I gave notice of a motion to express the Opposition's grave concern about a letter tabled in the House on that day. Today I shall reiterate those feelings and detail my views and those of the Opposition as to the appropriate course of action which should be taken by this Parliament, in response to the matters raised in the letter. The letter in question detailed an arrangement made by the then Acting Independent Commissioner Against Corruption, Mr Kevin Holland QC, and Mr Justice Wood, the commissioner appointed to head the Royal Commission into the New South Wales Police Service. As the royal commission commenced hearings last Thursday, the matter needs to be settled expeditiously. In summary, the proposal that I mentioned suggested that the royal commission effectively be stripped of its terms of reference concerning investigations into the alleged protection of paedophiles by members of the New South Wales Police Service. The letter stated that the royal commission could:

. . . take into account the information gathered by the ICAC, together with the results of any additional inquiries it makes, so that it can report in relation to the impartiality of the Police Service, and other agencies, in investigating and pursuing prosecutions.

The prosecutions in question relate to the detection and prosecution of paedophiles within this State. Mr Holland and Mr Justice Wood detailed their reasons for this suggestion. They said that the proposal was advanced "to avoid wasteful and detrimental duplication of resources" and further stated:

ICAC take primary responsibility for inquiring into the existence of any form of corrupt conduct in relation to the criminal investigation of paedophile activity, by the Police Service or public agencies, and into the procedures and relationships between those bodies concerning that subject.

This division of responsibilities would mean that the royal commission would not have a primary function in pursuing the allegations of protection of paedophiles by the New South Wales police. It would, therefore, be delegated to a secondary role; it would have to rely on the investigative measures taken by the Independent Commission Against Corruption. In effect, the royal commission which has been established to investigate matters such as this would be forced to rely on the judgments and discretionary decision making processes of another organisation as a precursor to any findings that it wished to make. The Opposition explicitly rejects this approach.

I shall detail some of the issues which arise out of this matter before I suggest the appropriate action that this House should take. I intend to deal with each matter in turn, in order to inform the House of the problems that such an approach would create. First, it is astonishing that the intention of Parliament has been so flagrantly disregarded. I shall make it very clear who was responsible for ignoring the will of Parliament as expressed in the royal commission's terms of reference. The commissioners are not at fault in this matter. I accept unreservedly that their intentions were honourable. There can be no doubt that neither they nor the Opposition would want to see an unnecessary duplication of resources if it could possibly be avoided.

The person responsible for this shambles is undoubtedly the Premier. This fiasco demonstrates that the Government, rather than taking the necessary steps to resolve the matter, after seven long years has simply lost the capacity to make decisions. This Government and its stagnant leader are content to let anyone else take the flak - to make the decisions that they are incapable of making. It is for these reasons that the proposal that I referred to earlier came from the commissioners, rather than the Government. If the Premier had acted at the appropriate time, this matter could have been resolved quickly and with the minimum of fuss. I shall return to this matter later. I shall now mention some of the other important issues that arise from this situation.

As I said when speaking to my notice of motion, the Opposition views with deep and grave concern that the will of Parliament has been thwarted. As I made clear, the Premier, due to his lack of action, has caused this to occur. The problem, as I see it, is this: if this Parliament had not wanted the royal commission to inquire into these matters, it would not have expressly included them in its responsibilities. That was the role of the Parliament. The Parliament said that the royal commissioner was to inquire into these matters. If that was not the wish of the Parliament, it should have expressly excluded the royal commissioner, knowing full well that a reference was before the ICAC. There is no ambiguity. There is nothing unclear about the words used to inform the royal commission of its task. The reference is for the royal commission to inquire into:

> (d) the impartiality of the Police Service and other agencies in investigating and pursuing prosecutions including, but not limited to, paedophile activity . . .
>
> (f) any other matter appertaining to the aforesaid matters concerning possible criminal activity, neglect or violation of duty, the inquiry into which the Royal Commission shall deem to be in the public interest.

As I said on 27 October, the Opposition calls on the Government to take all necessary steps to ensure that the Royal Commission into the New South Wales Police Service and the ICAC comply in all respects with the will of the Parliament as it was so clearly expressed. We, the elected representatives of this State, cannot abdicate our responsibility to the people of New South Wales. The Opposition does not intend to do so. It is obvious that the Government simply wants someone else to make the difficult decisions. Whilst the commissioner saw a difficult and potential problem, and submitted a possible solution, the Premier abandoned his duty by refusing to consider the implications if such an approach were to be implemented. The letter to which I referred earlier stated:

> It is understood that it is the prerogative of the Parliament as to the ICAC and the Executive Government as to the royal commission to override these arrangements if they are considered unacceptable.

To make things perfectly clear, the arrangements are patently unacceptable. I would like to indicate why the Opposition considers this to be the case. Paedophilia is one of the most abhorrent practices one could ever imagine. Possibly even more abhorrent are the allegations that members of the New South Wales Police Service have protected these animals and thwarted attempts to bring them to justice. It is these allegations that the royal commission will be concerned with. It is vital that we, as the elected representatives of this State, do everything in our power to stop these people - both the perverts involved in paedophilia and any corrupt police who protect them. Part of the task is obviously identifying any impediments to the prosecution process.

In its interim report on investigations into alleged police protection of paedophiles, the Independent Commission Against Corruption analysed several factors which might hamper attempts to bring paedophiles to justice. These included: factors which adversely affect the reporting of child sexual abuse; factors which adversely affect the investigation process; and factors which adversely affect the prosecution process. I refer honourable members to chapter two of the interim report for the details of these inherent difficulties. The Independent Commission Against Corruption also referred to its earlier report which arose out of the Operation Milloo investigation into the relationship between police and criminals.

The interim report listed several ways in which police might protect criminals, in this case paedophiles. These included: agreeing not to investigate or charge individuals in return for financial or other reward; warning

criminals that a police investigation is in progress; taking over investigations that have already commenced with a view to influencing them; improperly or inadequately investigating allegations of criminal activity so that no charges are laid; and once charges have been laid, taking steps to ensure the prosecution fails by, for example, tampering with evidence, approaching witnesses or arranging for cases to be allocated to sympathetic police prosecutors or magistrates. These factors, combined with the inherent difficulties which occurred in the prosecution of paedophiles, create a complex situation within which corruption can be very difficult to detect.

This is a major reason that a specific purpose body, that is, the royal commission, should be the one to investigate the recurring allegations. The royal commission has the resources and the independence to ensure that these factors are thoroughly investigated. I do not have to remind the Parliament that the specific reference from the royal commission said that the police would not be from New South Wales. The principal objective in not sending this matter to the ICAC is that the Independent Commission Against Corruption has seconded to it New South Wales police. The royal commission has clean hands to deal with this issue because it has non-New South Wales police. This inquiry has to be, above all else, pure of any problem associated with any links to corrupt activity.

It is to be hoped that any information placed before the royal commission can help to ensure that our Police Service is concerned with detecting and arresting the people - I use that term loosely - who continue to flout the laws of this State by forcing their diseased libidos on unsuspecting children. Recently the Commonwealth Government passed legislation designed to ensure that Australians who travel overseas to procure children for paedophilic purposes could be prosecuted under Australian law. A very clear message has been sent to those who operate and those who frequent what are colloquially known as "Asian sex tours". Such behaviour will not be tolerated by the overwhelming majority of Australians, and I suggest demonstrates the necessity for a thorough investigation into this matter in New South Wales. It graphically illustrates the need for the matter to be taken seriously by State governments in light of the decisive action taken by the Commonwealth Government.

I believe the royal commission is the appropriate forum for the investigation of this matter in the context of the role of the New South Wales Police Service. The royal commission has been given resources so that the allegations of corruption in the New South Wales Police Service can be adequately investigated once and for all. To remove such a vital plank in this process simply does not make sense. I invite the attention of the House to a recent article which detailed the serious matters which require the attention of the royal commission. In the article entitled "Sex Monsters Want Me Dead", Colin Fisk, a man who has decided to blow the whistle to the royal commission, discussed the state of terror in which he now lives because of his decision to reveal what he knows about the sordid circles in which paedophiles mix. The article suggested that Mr Fisk's life was in danger because of his determination to expose influential paedophiles in this State.

He revealed that the death of a young man who had been abused by paedophiles, with whom he associated, helped him to decide to come forward. He alleged that corrupt police protected these monsters for many years. Now he fears for his own safety. The article said that Mr Fisk "could be murdered by a ring of millionaire child molesters and the corrupt police who protect them". Despite this very real possibility Mr Fisk is determined to present his information to the royal commission. Mr Fisk, and others like him, should not be denied this opportunity. I would now like to examine the reasons why the royal commission needs to undertake this inquiry, rather than simply rely on second-hand information from the ICAC. The Opposition believes that the most sensible course of action is for the royal commission to take this matter over from the ICAC.

The ICAC received its paedophile reference on 10 March. The reference required the Independent Commission Against Corruption to investigate certain allegations, whether existing procedures were proper and the conduct of public officials. On 30 September the ICAC released the interim report on investigation into alleged police protection of paedophiles, to which I referred earlier. The ICAC divided its task into two phases. Phase one is now complete. The interim report represents the commission's work on this stage of the investigation. This phase entailed the commission gaining an understanding of the structure within which child

sexual abuse is investigated and prosecuted. Phase two was to be the active investigation and systems review work stage of the inquiry. Essentially the interim report represents an overview of information already in the public domain. It does not directly address allegations against individuals within the Police Service who may have been, or are still, involved in protecting paedophiles. The interim report says this is because:

> The protection of paedophiles has not been the subject of many specific allegations to the commission, the Ombudsman or the Police Service.

In light of the division of the reference into phases by the Independent Commission Against Corruption, this is not surprising nor inappropriate. The commission maintains that specific allegations of corruption against individuals would probably arise once it advertised for public submissions about the reference. This is another reason that this matter needs to be resolved quickly. If the reference becomes the domain of the royal commission, the Independent Commission Against Corruption will not have begun substantive work on any submissions it may have received. Further, if this matter were now to be handed to the royal commission, the background information collected by the Independent Commission Against Corruption could be used in an appropriate fashion.

The work already completed would mean that the royal commission could concentrate on what the ICAC termed phase two concerns. No duplication of resources would result. The royal commission would have a primary investigative role and the Independent Commission Against Corruption's interim report would provide the necessary context within which the matters raised could be considered. When considering this proposal, it should be remembered that the Independent Commission Against Corruption reference was formulated by this Parliament before the royal commission was formed. There is no good reason that the Independent Commission Against Corruption should not at this stage defer to the more appropriate body in this instance.

The royal commission was established to ensure that all people with information concerning police corruption are able to make that information known. It has been set up for a specific purpose, whereas the mandate of the Independent Commission Against Corruption is to uncover and eradicate corruption in all sectors of the public administration of New South Wales. At the time the allegations were passed on to the ICAC, a specific purpose body did not exist. Now it does. Accordingly, the royal commission must be the body to investigate the matters raised by the reference. As I said earlier, the Premier is obviously content to let other people make decisions for him and his Government. The Government, in its dying days, does not want to be seen to be doing

anything, let alone making any decisions. The Premier believes that if he and his Ministers say nothing, they cannot possibly get anything wrong.

The Government intends to sit on its hands until next March in the hope that nothing else goes wrong. Whenever the Government actually makes a decision the consequences are disastrous. We have seen an enormous amount of policy backflips in recent times. The Premier has obviously decided that he would rather let others outside his Government make the hard decisions for him. It is not good enough. The decision to give the commission the terms of reference in question has been taken by this Parliament. The Premier does not have the mandate to override the will of Parliament as it was so clearly expressed. Consequently, we on this side of the House will do everything within our power to ensure that this Government respects the royal commission's original mandate. The Opposition has suggested a solution to this problem which takes into account considerations of potential duplication of resources as well as what is best for the eradication of corruption within the New South Wales Police Service. Once again, the Government has abdicated its responsibility. The Opposition does not intend to do the same. I indicate that the honourable member for Heffron will be moving an amendment.

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [12.34]: It is absolute nonsense and high hypocrisy for the honourable member for Ashfield to suggest that the fault is the Premier's. The history of the matter is that on 10 March this House expressed its will, that it wanted the Independent Commission Against Corruption to carry out an investigation into paedophilia. That will has been obeyed.

The Independent Commission Against Corruption commenced its investigations. It must be remembered that the motion came from the Opposition. The Government shares Opposition concerns about paedophile activity in this State. There is no desire to run away from what needs to be done. The difficulty is that the Opposition is trying to turn this issue into a political argument. That is a nonsense. It was the Australian Labor Party that initiated the reference to the Independent Commission Against Corruption.

In May the honourable member for South Coast decided that as he had the numbers he would support the Australian Labor Party in establishing a royal commission and would give terms of reference to the ICAC as well. The result was duplication of the terms of reference to those organisations. The honourable member for Ashfield says the Premier does not have the power or the mandate to overrule the will of the Parliament. That is correct. That is why there was no decision by the Premier or the Government at any time to withdraw the reference to the Independent Commission Against Corruption. Nor was there any desire or ability by the Premier not to pass on, in letters patent to the royal commission, an ability to carry out an investigation into the same matter.

There were duplicate and concurrent investigations - almost to the same point - referred to those bodies. What then happened was that a letter was addressed initially to the Premier, but also to the presiding officers, recognising that it was a matter for the Parliament to resolve. That joint letter from the Independent Commission Against Corruption and the royal commission to the presiding officers indicated that there was duplication of resources and that something had to be done about that duplication. It is apparent that both statutory office holders, the Commissioner of the Independent Commission Against Corruption on the one hand and the royal commissioner on the other, received terms of reference - one of them under letters patent - in terms that have been expressed under the mandate of this Parliament.

However, the terms of reference to the royal commissioner ranged over a much wider field of police operations and the conduct of individual police officers than those relating just to paedophile activity. That is the reason for the belief, having regard to overlapping duty, that the Commissioner of the ICAC and the royal commissioner needed to resolve the situation. They came back to the Parliament, not to the Government, and said, "Having regard to the Parliament's will, we are going to put these joint references into place, but we are going to do it this way". The recommendation of those two statutory officers was that the Commissioner of the Independent Commission Against Corruption carry out the investigation and that it be oversighted by the royal commissioner. At the end of that process, if the Commissioner of the ICAC has concerns about it, he can carry out an investigation within the terms of reference he has been given. What we are really hearing today is that the Opposition does not have confidence in the Independent Commission Against Corruption carrying out this investigation.

That is the bottom line. That is what has been indicated today by the honourable member for Ashfield. I respect that advice. I respect his opinion on that matter. But the difficulty is that the Government does not have the evidence or the information upon which he has based his decision. Therefore, the Government is placed in a position where two statutory officers of the State - one the royal commissioner, the other the Commissioner of the Independent Commission Against Corruption - have given it advice on the course of action they want to take. The honourable member for Ashfield should have gone down to the royal commission - as I know he did - and given the royal commissioner sufficient evidence that would cause the royal commissioner to go to the Commissioner of the ICAC, and for them to jointly resolve to come back either to the Executive Government or to the Parliament and say, "We have evidence that it is not competent for the Independent Commission Against Corruption to continue to proceed with this investigation". But the Government has had no word from either the Commissioner of the Independent Commission Against Corruption or from the royal commissioner saying that is the situation.

That is the dilemma that the Premier and the Government find themselves in. If I and the Premier had a message from the royal commissioner that the royal commission is prepared to take this matter over, the Government would willingly yield, because that would be clear advice and an indication from those statutory

office holders that that is the appropriate course of action to resolve the situation and to uncover whatever activity is being undertaken by police or anyone else in New South Wales or Australia. The Government has a major difficulty in determining what body should conduct the investigation. For that reason, the Government opposes the motion and the proposed amendment.

Considering that the Opposition has been unable to convince the royal commissioner to take that course of action, one must ask: what is the sinister move behind the proposal? In the last few months the Labor Party has endeavoured to undermine every move the Government made to appoint a full-time commissioner for the Independent Commission Against Corruption. Mr Justice Barry O'Keefe now is the full-time commissioner. All through that debate the Opposition made clear that it had no confidence in Barry O'Keefe as commissioner. This proposal is the start of the death knell for ICAC by Labor. Mark my words - I hope the honourable member for South Coast thinks clearly about this - if by some unforeseen chance on 25 March Labor were to gain power, the ICAC in this State would be dead.

The Opposition has no confidence in the ICAC. The ICAC has already established a multidisciplinary team to undertake this work and pursue the recommendation under the terms of reference. Is it any wonder that statutory officers get confused when the Parliament changes its mind as many times as the Opposition has. That is one of the dangerous situations that have resulted from the Independents having the balance of power in this House. I urge my colleagues, particularly the honourable member for South Coast, to think clearly and carefully about the dilemma the Government faces, the dilemma the Opposition faces and also the dilemma the Parliament is imposing upon the royal commissioner and the Commissioner of the Independent Commission Against Corruption. I repeat: if we were to receive a clear message from the royal commissioner that he had been convinced to take over these investigations, the Government would willingly yield. Until the Government receives that advice, it will have no confidence in this motion.

Mrs GRUSOVIN (Heffron) [12.42]: I move an amendment to the motion in the following terms:

That the motion be amended by omitting all the words after the words "That this House - " with a view to adding the following words:

(1) Revokes the ICAC's reference to inquire into the alleged protection of paedophiles by members of the NSW Police Service, passed by this Parliament on 10 March, 1994;

(2) Amends the terms of the reference of the Royal Commission into the New South Wales Police Service to require it to inquire and report into:

(a) allegations that some members of the Police Service of New South Wales have by act or omission protected paedophiles from criminal investigation or prosecution, and in particular the adequacy of major investigations undertaken by the police in relation to paedophiles since 1983, however, the Commissioner may investigate any matters he deems necessary and relevant which may have occurred prior to 1983;

(b) whether the procedures of or the relationships between the Police Service of New South Wales and other public authorities adversely affected police investigations and the prosecution, attempted or failed prosecution of paedophiles; and

(c) the conduct of public officials related to the above matters.

(3) Sends a message to the Legislative Council conveying this resolution and requesting that the Legislative Council pass a resolution to revoke the ICAC reference to inquire into the alleged protection of paedophiles by members of the New South Wales Police Service and ensure those powers are given to the Royal Commission.

This House never referred the matter to the ICAC. The motion of this House in November last year called for a judicial inquiry. The Government decided the preferable course of action was to refer the matter to the ICAC. The Government rejected the notion of a royal commission, did not want a royal commission and did not believe a judicial inquiry would work. The Government opted for the ICAC. Much toing-and-froing went on until

March this year. I have no confidence in the ICAC with regard to this matter. I did hold the belief that the royal commission would finally be able to attend to these matters, but because that course of action is in jeopardy, I should like to place on record the contents of a statutory declaration I have received. It is important that the House have knowledge of its contents. The contents of this statutory declaration represent my position on the matter. The statutory declaration sworn by Colin John Fisk states:

> I . . . sincerely declare and affirm that five weeks after I was arrested on March 31, 1989 I made a series of records of interviews with the NSW police Internal Security Unit (IPSU) in which I named a number of prominent people I knew to be pederasts, including the solicitor John Marsden, MP Frank Arkell and other leading members of the community.
>
> I told the IPSU that Marsden had helped me establish a disco for young people in the Campbelltown area -

Mr West: On a point of order: I accept the right of honourable members to read statutory declarations into the record, but it is not appropriate for members to use the processes of the House to attack the character of individual people who have no capacity to defend the attack being made on them.

Mr Hatton: On the point of order: there is nothing in the standing orders to prevent an honourable member from verbally attacking any member of the public. It is on the honourable member's head if he or she chooses to make that attack under parliamentary privilege. If the statutory declaration relates to a reason that the ICAC should

not conduct the investigation, but rather that the royal commission should, and if it constitutes evidence, it responds precisely to the statement of the Minister for Police that if the Government is given such evidence, it will agree to the Opposition's proposal.

Mr ACTING-SPEAKER (Mr Glachan): Order! The honourable member for Heffron is in order.

Mrs GRUSOVIN: The statutory declaration continued:

> - through a mutual friend, the now disbarred lawyer, Ian Marshall Moore.
>
> As far as I was aware, while some other matters were later investigated through Operation Speedo, the police never investigated allegations into these prominent members of the community.
>
> My copies of the records of interviews and the statements I made were subsequently destroyed and I asked Detective Chief Inspector Ken Watson of the then IPSU for a copy of all my statements and records of interviews, as well as photographs I supplied them in relation to police officers involved in a pederast protection racket, including former Detective Sergeant Ron Fluit.
>
> In fact, I made four or five verbal requests to Chief Inspector Watson of the IPSU for copies, as well as at least three written requests for copies of this material, but to no avail. In one phone conversation with Chief Inspector Watson following the creation of the Royal Commission into Police Corruption, he indicated that certain material had been "misplaced".

[*Time expired*.]

Mr GRIFFITHS (Georges River) [12.47]: I support the proposed amendment of the Opposition, but I should like to make my reason clear. I have confidence in the Independent Commission Against Corruption and I have confidence in Mr Justice O'Keefe, but the Opposition clearly does not. This issue has been discussed in this House over many months and has never been fully resolved. I was confident that the ICAC would resolve the matter - given time it may - but whilst the Opposition does not have confidence in the ICAC or its commissioner, the matter must be referred to the royal commission. No-one spoke more vigorously against the formation of the royal commission than I. The royal commission has been established; the matter must be resolved otherwise doubts about it will remain. No matter what result the ICAC produces, Opposition members will still doubt that result. For those reasons I support the motion of the Opposition to refer the matter to the royal commission.

Mr HATTON (South Coast) [12.50]: Because of time constraints the honourable member for Heffron did not complete quoting the statutory declaration which she was quoting earlier. I have given her an undertaking to do so. The statutory declaration continues:

> Despite all these requests, I still have not been supplied with any of this material.
>
> When I went to the Royal Commission to give evidence the about the pederast protection racket, I was shown some statements I had made. However, some of the most important records of interviews which included allegations against those prominent pederasts were missing and I informed the Royal Commissioner about this.
>
> I am most concerned about the fact that this material was not supplied to the Royal Commission and that I cannot obtain it from the NSW police.
>
> In making this statutory declaration I am seeking Mrs Grusovin's help to ensure that justice is done and ensure that there will be no more coverups.
>
> TAKEN and declared at Pagewood in the
> said State this Twentyfirst day of
> October 1994.

The document was signed by C. J. Fisk and countersigned by J. A. Ferry, JP.

Mr West: On a point of order: earlier it was ruled that it was permissible for that statutory declaration to be read on to the record of the Parliament. I now ask that that document be tabled.

Mr SPEAKER: Order! The honourable member for South Coast is not able to do so. Private members cannot table documents.

Mr HATTON: I will hand the document to the Minister, who will be able to table it if he wishes.

Mr SPEAKER: Order! He can do so at the appropriate time.

Mr HATTON: I am aware of the dilemma with which this Government is faced. I have some sympathy for the Government. The Independent Commission Against Corruption is in the situation that I envisaged it would be after the appointment of Mr Justice O'Keefe. It could well be that people believe that the Opposition does not have faith in the ICAC. However, that is not the issue. A resolution of this Parliament established a royal commission. The terms of that royal commission clearly delineated the matters into which it is required to inquire. That royal commission was specifically established so that New South Wales police officers, former New South Wales police officers or employees of the New South Wales Police Service were not used to conduct this investigation. Even if we had faith in the ICAC it would be logical for us to ask that the paedophile matter be investigated by the royal commission, especially if concern has been expressed that the New South Wales Police Service, which is investigating the matter for the ICAC, has not carried out its investigations in a thorough, diligent and impartial manner. The royal commissioner would not want to be in a position - it would not be proper for him to be in the position - of being seen to be in conflict with the ICAC. He is happy to be directed by the Parliament and will not involve himself in that controversy. That is quite proper. I support the amendment.

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [12.53]: I thank Opposition members for providing me with a copy of the statutory declaration, which was read earlier in the House. It is important for us to be able to prove the details referred to in that document. I seek leave to table a statutory declaration of Colin John Fisk, dated 21 October 1994.

Leave granted.

Mr WHELAN (Ashfield) [12.54], in reply: This amendment will satisfy the wishes of the Australian Labor Party. Clearly, it is not that we do not have confidence in the Independent Commission Against Corruption, but that body is not the appropriate authority to conduct this investigation. This matter is so serious that it warrants investigation by police outside New South Wales. For those reasons the royal commission, in our view, is the appropriate authority, which is what the amendment states.

Question - That the amendment be agreed to - put.

The House divided.

Ayes, 48

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Mr A. S. Aquilina	Mr Mills
Mr J. J. Aquilina	Ms Moore
Mr Bowman	Mr Moss
Mr Clough	Mr J. H. Murray
Mr Crittenden	Mr Nagle
Mr Face	Mr Neilly
Mr Gaudry	Ms Nori
Mr Gibson	Mr E. T. Page
Mr Griffiths	Mr Price
Mrs Grusovin	Dr Refshauge
Mr Harrison	Mr Rogan
Ms Harrison	Mr Rumble
Mr Hatton	Mr Scully
Mr Hunter	Mr Shedden
Mr Iemma	Mr Sullivan
Mr Knight	Mr Thompson
Mr Knowles	Mr Whelan
Mr Langton	Mr Yeadon
Mrs Lo Po'	
Mr McBride	*Tellers*,
Dr Macdonald	Mr Beckroge
Mr McManus	Mr Davoren

Noes, 45

Mr Baird	Mr W. T. J. Murray
Mr Beck	Mr O'Doherty
Mr Blackmore	Mr D. L. Page
Mr Causley	Mr Peacocke
Mr Chappell	Mr Petch
Mrs Chikarovski	Mr Phillips
Mr Cochran	Mr Photios
Mrs Cohen	Mr Richardson
Mr Collins	Mr Rixon
Mr Cruickshank	Mr Schipp
Mr Debnam	Mr Schultz

Mr Downy	Mrs Skinner
Mr Fraser	Mr Small
Mr Glachan	Mr Smith
Mr Hartcher	Mr Souris
Mr Hazzard	Mr Tink
Mr Humpherson	Mr Turner
Dr Kernohan	Mr West
Mr Kinross	Mr Windsor
Mr Longley	Mr Zammit
Ms Machin	*Tellers*,
Mr Merton	Mr Jeffery
Mr Morris	Mr Kerr

Pairs

Mr Doyle	Mr Armstrong
Mr Irwin	Mr Fahey

Question so resolved in the affirmative.

Amendment agreed to.

Motion as amended agreed to.

BUSINESS OF THE HOUSE

Orders of the Day: Suspension of Standing and Sessional Orders

Motion, by leave, by Mr West agreed to:

That Standing and Sessional Orders be suspended to allow consideration of Government Business Order of the Day No. 3 prior to consideration of General Business Order of the Day for Committee Reports.

JOINT SELECT COMMITTEE UPON POLICE ADMINISTRATION

Release of In Camera Evidence

Debate resumed from 30 November.

Mr WHELAN (Ashfield) [1.02]: This morning I discussed the release of the in camera evidence concerned with the royal commissioner. The royal commissioner does not accept the qualifications and restrictions placed on the commission. I agree with the view of the royal commissioner. However, I have to say that we should give consideration to the ability of a royal commissioner to publicly disclose information contained in a parliamentary committee and evidence taken in camera. The royal commissioner has told me that he would not be constrained in any way in his reporting of the matter. My concerns have been allayed and the Opposition agrees with the amendment.

Amendment agreed to.

Motion as amended agreed to.

SYDNEY AIRPORT THIRD RUNWAY

Standing Order 54: Tabling of Papers

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [1.03], by leave: In accordance with a resolution of the House, and pursuant to Standing Order 54, I lay on the table certain documents.

SELECT COMMITTEE UPON MOTOR VEHICLE EMISSIONS

Report

Mr HUMPHERSON (Davidson) [1.04]: I had the privilege of chairing the Select Committee upon Motor Vehicle Emissions and preparing the committee's report. I pay tribute to committee members, who gave substantially of their time. I pay particular tribute to the committee staff, particularly
Page 6119
to the role played by Catherine Watson and Hilary Parker. I pay tribute also to the support provided by the Environment Protection Authority, the Department of Transport and relevant Ministers. Key recommendations of the committee relate to the phasing out of the use of leaded fuel in New South Wales, in the same way it has been phased out in Canada, the United States and Austria. There is significant evidence that lead in the environment has adverse impacts on health. Since most of the lead in the environment comes from leaded fuel, reformulated fuel should be a priority and the use of leaded fuel should be phased out. That can occur, provided there is sufficient will.

Committee members believe that there is a good argument for a portion of the 3 x 3 fuel levy to be hypothecated towards the development of rail infrastructure, particularly because reduction of reliance on motor vehicles in urban areas would result in reduced levels of air pollution. There would be a number of intangible benefits also. It is important that the rail infrastructure be both convenient and timely in provision of service to the public. Another aspect is the focus on the Australian design rules. The design rules allow for relatively high lead emissions from motor vehicles, particularly when compared to the allowable level of lead emissions in Europe, Japan and the United States. Page 16 of the committee's report identifies the current nitrous oxide emission level in Australia as being 1.93 grams per kilolitre.

The Australian standard has been in place since 1976, that is, for the past 18 years. The current United States standard is 0.63 grams per kilolitre, and it is intended that the standard be reduced this year to 0.24 grams per kilolitre and reduced further to 0.12 grams per kilolitre by the year 2004. Given that the Australian standard is eight times higher than the best practice overseas, the committee and many witnesses who presented evidence are concerned that the Federal Government has been inordinately slow to review the Australian standard. The Federal Minister for Transport, Laurie Brereton, and the Federal Minister for the Environment, Sport and Territories, John Faulkner, have to accept responsibility. The onus is on them to acknowledge that the poor standard currently applied in Australia leads to high levels of air pollution, particularly in the urban areas of Sydney and Melbourne.

I should like to explain why nitrous oxide in particular is a problem. The nitrous oxide emitted from motor vehicles accounts for about three-quarters of the nitrous oxide emissions in the Sydney air shed. Nitrous oxide combines with volatile organic compounds to produce ozones, considered to be the most deleterious product in the atmosphere. Even healthy people can suffer adverse effects from exposure to ozone at relatively low levels. Those effects can include eye irritation, chest discomfort and coughing, headaches, respiratory illness, increased asthma attacks and reduced pulmonary function. That in itself demonstrates that there should be an urgent review of nitrous oxide standards. The normal process of review has been progressing for a number of years, with little effect. Finally, I refer to diesel engines, which produce high levels of particulates that enter the air shed in urban areas. Clearly higher standards are needed. In fact, it is worth noting that a number of submissions to the committee stated that diesel engines imported from Japan failed to meet the

standards that are imposed in other constituencies such as the United States of America and Europe. Diesel engines which fail to meet the best practice standards overseas are imported to New South Wales and Australia. Australian design rules are the focus of the recommendations of the committee, and they deserve to be improved.

Mr GAUDRY (Newcastle) [1.10]: The Opposition joins with the Chairman of the Staysafe committee in congratulating the workers of the committee - the Secretariat, Catherine Watson; the Committee Clerk, Ms Ronda Miller; and the Assistant Committee Officer, Ms Hilary Parker - on their valuable work in assisting the committee in the production of this unanimous report. Of particular importance to me is the committee's recognition of the need for improvements to public transport as one of the many measures that will have to be taken if the level of emissions to the atmosphere is to be reduced.

As the motor vehicle fleet in New South Wales grows, the current level of pollution control will not be adequate in our cities, particularly Sydney, Newcastle and Wollongong, to keep pollution down to an acceptable level without the introduction of better planning policies and policies that indicate improved infrastructure in terms of public transport. The committee came to the view that perhaps up to one-third of the 3 x 3 fuel levy currently imposed on the sale of motor vehicle fuel in New South Wales could be hypothecated towards rail infrastructure. That is a positive outcome of the deliberations of the committee.

The committee received submissions in written form and in direct evidence from a range of experts from the Environment Protection Authority, the motor vehicle industry and the motor vehicle maintenance industry, as well as advocates from the various sectors of public transport. The committee formed its opinions and recommendations on the basis of that expert evidence and came to a clear belief that New South Wales needed to adopt goals for all major motor vehicle related pollutants that are in line with world's best practice. It was also of the view that industry standards that lag up to 15 years behind world's best practice can no longer be accepted. In the air sheds of Newcastle, Sydney and Wollongong annual inspection and maintenance regimes are needed to ensure that vehicles are kept to manufacturing standards as long as possible and that vehicles on the road are kept in good order.

The committee was also concerned about smoky vehicles and the impact of high levels of particulates being injected into the atmosphere, particularly by the diesel fleet. The committee recommended that there needed to be greater enforcement of the smoky

vehicle program with the assistance of the EPA and local council rangers. There is an emphasis on improving the existing fleet and improving the inspection and maintenance systems. It became obvious as a result of the work undertaken by the Roads and Traffic Authority and the EPA that the maintenance industry does not have machinery of a sufficiently high standard to enable effective regular testing at all stations. Education programs on, and upgrading of, testing equipment is required before a comprehensive test can be carried out.

The report of the committee was unanimous. I again congratulate my fellow members of the committee for their input and the staff for their efforts. I again emphasise that it is not just about cutting down pollution from motor vehicles in 1994 terms; it is about increasing standards, developing planning policies that will lead to greater emphasis on public transport, and developing cities designed for public transport use. [*Time expired*.]

Mr RIXON (Lismore) [1.15]: I also congratulate other members of the committee and the secretariat, and I generally support the recommendations. However, I draw the attention of the House to recommendation No. 11, which suggests that 3 x 3 fuel tax money be hypothecated towards rail infrastructure. I would not like the amount of money that is allocated from the 3 x 3 fuel levy to roads in country areas to be reduced. I can see the benefit of encouraging more people to move from car to rail transport in the cities, and I support that idea, but people in country areas do not have the luxury of rail transport and in many places do not have the luxury of public transport of any sort. With that qualification I express my support for the report.

Report noted.

COMMITTEE ON THE OFFICE OF THE OMBUDSMAN

Report - Collation of Evidence

Report noted.

SELECT COMMITTEE ON BUSHFIRES

Report

Mr COCHRAN (Monaro) [1.17]: It is regrettable that the committee had to work parallel with two other inquiries, the inquiry of the Coroner and that of the Cabinet subcommittee. Because of constraints placed on the committee, the report is inconclusive, and as such deserves to be followed up at a later time. The committee recommended the establishment of a standing committee on natural disasters to inquire into such disasters as the January bushfires, the Newcastle earthquake, the Nyngan floods, and the drought. Parliamentary and coronial inquiries into bushfires have unfortunate records. I have been a fire control officer for three years in the Cooma-Nowra shire and was therefore able to make what I considered good judgments on many issues.

It is regrettable that many reports presented by parliamentary committees and coronial inquiries - the inquiries into the Huon Valley fire in 1966, and the Black Friday and Ash Wednesday fires - have not been followed up. As a result the report recommends that a number of issues should be identified on each occasion. The committee has therefore recommended that a natural disasters standing committee be formed to follow up such issues. The committee found that the legislation had been adequately addressed by the Cabinet subcommittee. However, a standing committee would be able to monitor the progress of the various changes to the Bush Fires Act. That would provide an opportunity for updating the legislation as society changes and the demographics of the State change. We need to ensure that legislation maintains momentum with the developing bush fire brigades and emergency services across the State.

The issue of bushfire trails was raised in conjunction with the hazard reduction issue. The committee recommended that the Bush Fire Council of New South Wales establish a minimum standard for bushfire trails so that bush fire fighters can expect trails which will provide for passing lanes, creek crossings of an exceptional standard and gradients that can be successfully traversed by the various vehicles available to bushfire services. As to welfare, there is a commendation for the Department of Community Services and the volunteer organisations. The committee considered that the welfare organisation in general was conducted in a smooth and efficient way, and provided good service to those who received that service during the January fires.

As to the media, various views were expressed to the committee by witnesses about the effectiveness of using the media as a method of communication for those in the field and for interested bystanders. I share the concern of those who expressed doubts about the value of the media in interpreting press releases issued by the fire control centre. The committee felt that the media should be approached on an informal basis with the idea of formalising bulletins that could be released directly, as opposed to being interpreted and then released, from the fire control centre by an authorised person. The benefit of that is that the information is instantaneous; therefore, those in the field who are monitoring the situation or those in the forefront are able to receive direct instructions from the fire control centre.

Commercial radio stations could be identified around the fire area, and a bulletin could be published either on the half hour or the hour. That would be indicated by a symbol of bells or some other communication that an authorised bulletin was about to be released. People would then know that a bulletin was coming directly from the fire control centre and that it was authorised. As to communications and equipment in general, we have had a major upgrading of equipment across the State in recent years. There are bush fire brigades in

remote areas across New South Wales, well into the western division and in other parts of the State, up and down the coast, which now have equipment that

they would not have dreamed of 10 years ago. The new Isuzu trucks, the category one vehicles, the quick-response land cruisers and other vehicles which are now available, and other equipment such as overalls, boots, goggles and helmets, were not available 10 years ago to many of the bush fire brigades to the west of the Blue Mountains. Such equipment has proved to be a great success in preventing personal injury to firefighters in the field.

I must comment on the complicated radio network that has evolved over a period of 20 to 30 years throughout bush fire brigades and, indeed, all government services. As a result of the evolution of the technology available, bush fire brigades, emergency services and government instrumentalities have, by necessity of their geographical locations, equipped themselves with various radio frequencies that are not compatible with the other services. We need to establish a special frequency band for all the services involved in bush fire fighting. This problem has been recognised by the State Government and the bushfire service. The introduction of the government radio network will, to a large degree, overcome the problem.

However, it is an expensive exercise, and the proposal to establish the network over a period of four or five years risks obsolescence. Indeed, this may not be an adequate way of addressing the problem unless the system is introduced at an earlier stage than recommended. As to the rest of the equipment across the State, significant advances have already been made towards establishing compatibility between the various services. Even during the life of the committee, bushfire services and the New South Wales Fire Brigades established compatibility with their breathing apparatus, which was not the case during the January fires. This is an ongoing program. A standing committee would be the best vehicle to monitor the establishment of the standardisation of equipment. To provide our volunteer firefighters with the best technology available, we need to establish compatibility in equipment. Our firefighters are outstanding. They, with the police and other emergency services, comprise the best volunteer bush fire brigade service in the world. The contribution that the bush fire brigade made to saving life and property in the January fires was nothing short of outstanding and extraordinary. It should be commended by all members.

In conclusion, I pay tribute to those committee members who showed diligence in attending to as many of their committee obligations as they could. They worked amicably and with a spirit of bipartisanship, and they showed professionalism in their attitude to the task at hand. They were ably assisted by a capable staff. I pay tribute to the staff of the committee, who went out of their way not only to extract all of the relevant information from the witnesses but to make those who travelled around the State as comfortable as possible. Despite the restraints placed on the committee by the caveats of the deputy coroner, it has produced a good result, and its efforts should be continued by a standing committee after the formation of the next Parliament.

Mr PRICE (Waratah) [1.26]: I join the chairman of the Select Committee on Bushfires in congratulating and thanking the staff of the committee, who served the committee and maintained operations in such a professional way. In concurring with the chairman's comments, I emphasise the constraints placed on the committee with regard to the restricted access to documentation of the Cabinet subcommittee and the coroner. While I appreciate the need for confidentiality and security in some aspects, I believe that something as important as the bushfire menace that this State continues to face should have received a much more sympathetic hearing. Nevertheless, under the circumstances, the committee was able to work well. Although the recommendations of the committee are not necessarily final in their nature, they are certainly adequate given the time constraints on the committee.

The proposal to establish a standing committee received the support of all committee members. We saw the good sense in keeping a watchful legislative eye on the operations of all emergency services, not only the fire brigades and the bush fire brigades. During our hearings we detected some friction between, for instance, the various firefighting organisations and the police. There was also some concern expressed about communications between police, the fire brigade and the general community, especially with regard to evacuation procedures. I realise that this friction can be resolved, but if we must wait for another crisis before

the matters are addressed, things will obviously continue to be in disarray - and this could inadvertently lead to tragedy.

I certainly support that recommendation. I know that my comments are reflected by other Opposition members. A further concern is the need to establish a standard for fire trails to be maintained by local governments within their areas. We need periodic passing areas to allow adequate vehicle ingress and egress. The problems associated with locked accesses must also be resolved. Those matters should be addressed on a statewide basis - given the number of vehicles that attend emergency situations from all over New South Wales and, indeed, interstate. If we are to have assistance one to another within various areas, let us not impede the delivery of that assistance by placing constraints on that delivery. In many cases it involves problems with maintenance; sadly, in some cases, it involves a lack of interest between emergencies.

Another aspect worthy of mention relates to the insuring of property. It emerged during the committee's deliberations that many more properties than anyone imagined were either not insured or were underinsured, and that many people relied on the generosity of the public and the distribution of funds through the Department of Community Services. While the committee commended officers of that
Page 6122
department for their action, I would like to highlight the obligations of those who live in bushfire-prone areas to protect themselves against the loss of their properties as best they can. One way of doing that, of course, is by having adequate insurance cover. I cannot emphasise that point strongly enough. It is an important point that I know will be taken into account and acted upon by many people who have been affected by bushfires.

In respect of communications generally, I can only agree with the chairman that communication channels need to have a common frequency. I look forward to the Government's stance on a standing committee on national disasters not only to address those matters but subsequently to monitor and periodically investigate to ensure that equipment and maintenance of it are kept up to scratch and to ensure that funds are made available for the immediate conversion of equipment and for continuing maintenance programs instituted to allow the system to continue. It has been a pleasure to work with members of the committee and staff, and I congratulate the chairman on the report. I certainly endorse it.

Report noted.

PUBLIC ACCOUNTS COMMITTEE

Report: State Debt Control (Balanced Budgets) Bill

Report noted.

[*Mr Acting-Speaker (Mr Rixon) left the chair at 1.35 p.m. The House resumed at 2.15 p.m.*]

PETITIONS

Newcastle Rail Services

Petition praying that the rail line between Civic railway station and Newcastle railway station not be closed, received from **Mr Gaudry**.

Forest Protection

Petitions praying for an immediate and permanent moratorium on the logging of all native old growth and wilderness forests, and for legislation to change present forest management practices, received from **Ms Allan** and **Ms Moore**.

Coffs Harbour and Clarence Valley Water Supply

Petition praying that a strategy be developed to supply water to the Coffs Harbour and Clarence Valley communities, and to protect local rivers, received from **Ms Allan**.

Marijuana Prohibition

Petition praying that legislation be enacted to give effect to the Law Society's recommendations on reform of marijuana prohibition laws relating to the use, possession and cultivation of marijuana for personal use, received from **Mr Gaudry**.

Bass Hill Policing

Petition praying for an increase in police patrols in the Bass Hill Neighbourhood Watch area, received from **Mr Nagle.**

Bulli, Coledale and Port Kembla District Hospitals

Petition praying that the present level of services be retained at Coledale, Bulli and Port Kembla district hospitals, received from **Mr Sullivan**.

BUSINESS OF THE HOUSE

Printing of Reports

Motion by Mr West agreed to:

That the following reports be printed:

Report of the Election Funding Authority for the year ended 30 June 1994.
Report of Freedom of Information for the Office of the Ombudsman for the year ended 30 June 1994.
Report of the Premier's Department for the year ended 30 June 1994.
Report of the State Electoral Office for the year ended 30 June 1994.
Statistical Return for the by-election Held in the Electoral District of Cabramatta on Saturday 22 October 1994.
Report of the Sydney Organising Committee for the Olympic Games for the Period 12 November 1993 to 30 June 1994.
Report of NSW Public Works for the year ended 30 June 1994.
Report of the Roads and Traffic Authority for the year ended 30 June 1994.
Report of the State Rail Authority of New South Wales for the year ended 30 June 1994.
Report of the State Transit Authority of New South Wales for the year ended 30 June 1994.
Report of the Tow Truck Industry Council of New South Wales for the year ended 30 June 1994.
Report of the Department of Transport for the year ended 30 June 1994.
Report of the Murray/Darling Basin Commission for the year ended 30 June 1994.
Report of the National Trust of Australia (New South Wales) for the year ended 30 June 1994.
Report of the Newcastle International Sports Centre Trust for the year ended 30 June 1994.
Report of the Water Board for the year ended 30 June 1994.
The Public Accounts for the year ended 30 June 1994.
Report of the New South Wales Drug Offensive Foundation for the year ended 30 June 1994.
Report of the New South Wales Health Foundation for the year ended 30 June 1994.
Report of NSW Health for the year ended 30 June 1994.
Report of the Industrial Relations Commission of New South Wales for 1993.
Report of the Trustees of the Parliamentary Contributory Superannuation Fund for the year ended 30 June 1994.
Report of the State Authorities Superannuation Board and the State Superannuation Investment and Management Corporation for the

fifteen months period ended 30 June 1994.

Report of the NSW Ministry for the Status and Advancement of Women for the year ended 30 June 1994.

Report of the WorkCover Authority of New South Wales for the year ended 30 June 1994 together with the financial statements for the WorkCover Scheme Statutory Funds for the year ended 30 June 1993.

Report of NSW Agriculture for the year ended 30 June 1994.

Report of the Earth Exchange (Geological and Mining Museum Trust) for the year ended 30 June 1994.

Page 6123

Report of NSW Fisheries for the year ended 30 June 1994.

Report of the Processing Tomato Marketing Committee of NSW for the year ended 31 May 1994.

Report of the Attorney General's Department for the year ended 30 June 1994.

Report of the New South Wales Bar Association incorporating the Report of the Barristers' Benevolent Association of New South Wales for the year ended 30 June 1994.

Report of the Bicentennial Park Trust for the year ended 30 June 1994.

Report of the Centennial Park and Moore Park Trust for the year ended 30 June 1994.

Report of the Department of Corrective Services for the year ended 30 June 1994.

Report of the Environment Protection Authority for the year ended 30 June 1994.

Report of the Environmental Trusts incorporating the Environmental Restoration and Rehabilitation Trust, Environmental Research Trust and Environmental Education Trust, for the year ended 30 June 1994.

Report of the Department of Juvenile Justice for the year ended 30 June 1994.

Report of the Licensed Conveyancers Council under section 209B, Legal Profession Act 1987, for the period 10 September 1993 to 30 June 1994.

Report of the Lord Howe Island Board for the year ended 30 June 1994.

Report of the Motor Accidents Authority of NSW for the year ended 30 June 1994.

Report of the New South Wales National Parks and Wildlife Service for the year ended 30 June 1994.

Report of the Office of the Protective Commissioner for the year ended 30 June 1994.

Report of the Office of the Director of Public Prosecutions New South Wales for the year ended 30 June 1994.

Report of the Royal Botanic Gardens Sydney for the year ended 30 June 1994.

Report of the Urban Parks Agency for the year ended 30 June 1994.

Report of the Waste Recycling and Processing Service of New South Wales for the year ended 30 June 1994.

Report of the Zoological Parks Board of New South Wales for the year ended 30 June 1994.

Report of the New South Wales Casino Control Authority for the year ended 30 June 1994.

Report of the Chief Secretary's Department for the year ended 30 June 1994.

Report of the New South Wales Government Telecommunications Authority for the year ended 30 June 1994.

Report of the Liquor Administration Board for the year ended 30 June 1994.

Report of the Greyhound Racing Control Board for the year ended 30 June 1994.

Report of the Harness Racing Authority of New South Wales for the year ended 30 June 1994.

Report of the State Sports Centre for the year ended 30 June 1994.

LEGISLATION COMMITTEE UPON THE ENDANGERED AND OTHER THREATENED SPECIES CONSERVATION BILL

Report

Mr HUMPHERSON (Davidson) [2.20]: I bring up and lay upon the table of the House a report prepared by the Legislation Committee on Endangered and Other Threatened Species Conservation Bill, together with minutes of proceedings. I also bring up and lay upon the table the minutes of evidence taken before the committee.

Ordered to be printed.

REGULATION REVIEW COMMITTEE

Report: Forestry Regulation

Mr CRUICKSHANK (Murrumbidgee) [2.22]: I bring up and lay upon the table report No. 31 of the Regulation Review Committee, drawing the special attention of Parliament to the need to amend forestry regulation 94 so that it implements Government policy for public participation in the preparation of management plans for State forests.

Ordered to be printed.

QUESTIONS WITHOUT NOTICE

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BALANCED BUDGET LEGISLATION

Mr CARR: My question without notice is directed to the Treasurer. When Cabinet considered balanced budget legislation, did it have advice from Mr Katz QC that the legislation could not legally bind future governments? Did he say the amendment would not be legally effective? Will the Treasurer table his advice?

Mr COLLINS: I take this opportunity to remind the House of the benefits to be obtained through the balanced budget legislation being debated by this House.

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

Mr COLLINS: There is no doubt that the balanced budget legislation would be a quantum leap in financial accountability and responsibility for any government occupying these benches. That is precisely why Cabinet approved that measure for debate.

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order.

Mr COLLINS: That is why the Government will proceed with the legislation. The Government has had a great deal of advice put to it.

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

Mr COLLINS: There is no doubt whatever that that advice was that balanced budget legislation be brought before the House now and put before the people of New South Wales in the lead-up to the election on 25 March. We on this side of the House say that the people of New South Wales should be given the opportunity to make a decision on that proposed legislation. What does the Opposition have to hide? Why does it keep running away from balanced budget legislation? Why is it so afraid of a requirement to balance the budget in this State?

Mr SPEAKER: Order! I call the honourable member for Eastwood to order. I call the honourable member for Hurstville to order. I call the honourable member for Auburn to order. I call the honourable member for Hurstville to order for the second time.

Mr COLLINS: The Labor Party cannot even run its own finances, but it wants carte blanche and no restrictions whatever -

Mr Price: On a point of order: I request that the Minister be asked to return to the question about advice

sought and the tabling of that advice.

Mr SPEAKER: Order! The Treasurer is fully within the leave of the question.

Mr COLLINS: The Labor Party, without restriction, wants the freedom in this State to run up the kind of debt that its colleagues ran up in Victoria and South Australia in recent years.

Mr SPEAKER: Order! I call the Minister for Health to order. I call the honourable member for Kiama to order.

Mr COLLINS: That is what the Opposition wants to do. That is why it is so afraid of balanced budget legislation.

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

Mr COLLINS: That is why we on this side of the House will persist with balanced budget legislation and let the people of New South Wales decide on 25 March. I particularly address my comments to those on the crossbenches. While they, understandably, for partisan political reasons, given their past performance, want to avoid balanced budget legislation at all costs -

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

Mr COLLINS: - it is incumbent on the non-aligned Independents in this State to give the people of New South Wales an opportunity to address this issue. There is no doubt that other States are going to follow the lead that New South Wales has taken with balanced budget legislation. The Opposition may laugh now, but I predict that by the end of the decade every State will have balanced budget legislation. This Government is setting the agenda and the pace for reform and accountability in this country.

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

Mr COLLINS: Honourable members should mark my words. By the end of this decade every State will have balanced budget legislation.

Mr SPEAKER: Order! There is far too much interjection and audible conversation in the Chamber. As I advised yesterday, between now and the end of the session members will be called to order for indiscretions that might not on other occasions attract the attention of the Chair. It is essential at this stage of the session that the business of the House proceed in an orderly fashion. I am concerned about the impression created in members of the public in the gallery about the behaviour of members of Parliament. The behaviour of members who demonstrate considerable rudeness by interjection and conversing while another member is speaking does not enhance the dignity of the Parliament.

COUNCIL OF AUSTRALIAN GOVERNMENTS

Mr BLACKMORE: My question without notice is addressed to the Premier, and Minister for Economic Development. Has the scheduled Adelaide meeting of the Council of Australian Governments been cancelled? If so, what will be the impact on drought-affected farmers and the Commonwealth's commitment to competition policy?

Mr FAHEY: I thank the honourable member for Maitland for his question.

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

Mr FAHEY: The honourable member's question is somewhat relevant to the Hunter Valley, as I shall demonstrate. The Prime Minister's unilateral decision to cancel the next meeting of the Council of Australian Governments sends a clear signal that Mr Keating is not serious, first, about establishing a national drought policy, second, about progressing competition policy and microeconomic reform more generally or, third, about reforming the roles and responsibility of the different levels of government in delivering crucial social services. The excuse that the meeting falls too close to the date of the New South Wales State election is plainly absurd. The date of the New South Wales election has been known for years, and the date of the COAG meeting was set in full knowledge of this in Darwin in August. There was considerable discussion and general agreement by all parties regarding the date. The unilateral cancellation of the COAG meeting by the Prime Minister shows that he does not have a genuine commitment to a cooperative form of federalism.

New South Wales pushed hard to get national drought policy on the agenda for the February COAG meeting. I draw the conclusion that Mr Keating is not really interested in helping our farmers to be better prepared for serious drought. I asked that COAG consider in February three main drought issues: incentives for farmers to invest in water and fodder conservation, tax incentives to encourage drought proofing of farms in good years, and improvement of the income equalisation deposit scheme to make it more attractive to farmers as a way to manage cash flows for drought.

The Prime Minister's actions show a blatant disregard for the present difficulties facing the rural sector and a lack of willingness to reform elements of national drought policy that would go some way to helping our farmers. COAG is the only forum available for the Commonwealth and the States to sit down together to make real advances in overhauling Federal-State financial relations, to reduce the
Page 6125
wasteful duplication of government services and to achieve national microeconomic reforms. Time and time again New South Wales has demonstrated its bona fides in this area. Only in the last few weeks we opened up coal transport in the Hunter Valley to provide true competition. Breaking the monopoly on rail transportation of coal in the Hunter Valley was in the national interest far more than in the interest of New South Wales revenue.

Mr Mills: Go and tell the workers that.

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

Mr FAHEY: The honourable member would not know. He does not even know where the Hunter Valley is.

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

Mr FAHEY: The States are committed to the reform of competition policy. However, the Commonwealth must recognise that implementing reforms such as the restructure of public monopolies will have a major impact on State budget revenue sources. The record of New South Wales shows that we are serious about micro-economic reform. In just the last two years New South Wales has made major reforms to the legal profession, State-owned financial institutions and fish marketing. We have made major improvements to the delivery of health, transport, electricity and local government services. We have also set up the Regulation Review Unit to cut down on the incidence of red tape. With a solid record of reform, New South Wales is sick and tired of being lectured to by the Commonwealth on the need for micro-economic reform.

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

Mr FAHEY: The Government is particularly sick and tired in view of the Commonwealth Government's distinct lack of success on industrial relations reforms and privatisation. The cancellation of COAG will mean that some of the critical steps for reporting on the progress of national electricity reform might slip. New South Wales is on track with its reforms in this area, having recently created its Electricity Transmission Authority and having taken significant steps in the reform of the Snowy scheme. Furthermore, with the transitional national

market due to commence on 1 July 1995, setting back the COAG meeting will severely limit the time for some critical decisions to be appreciated, taken on board and implemented prior to the proposed commencement of the market.

The Prime Minister is potentially delaying the commencement of the market through reducing preparation time. The States have put an enormous amount of work into developing proposals for reform of Commonwealth-State roles and responsibilities. This work has centred on achieving reforms that will eliminate wasteful duplication of services and instead provide more efficient delivery of services to the public in the important areas of health and community services, child care, and public housing. Unfortunately for the Australian public, it appears that the Prime Minister does not share this concern. If we are serious about creating a more efficient, dynamic and internationally competitive economy as we move towards the twenty-first century, Australia's heads of government must be clear-headed in their assessment of the national interest. Common sense and constructiveness must be taken to our meetings. Above all, we must have commitment to cooperation. The Prime Minister's unilateral decision to cancel COAG flies in the face of these aspirations. He has proposed that the next meeting be held in conjunction with the annual financial Premiers Conference.

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

Mr FAHEY: Everyone knows that the annual Premiers Conference is simply a farce. The Commonwealth exploits its superior revenue-raising powers to belt the States around the head with a financial baseball bat. It is a meeting that is the antithesis of cooperation. Combining COAG with the special Premiers Conference will not work and is just not on. The real consequence of the Prime Minister's decision means that many issues on the COAG agenda will not be able to be dealt with even in April. Reforms that will act to increase the capacity and competitiveness of the economy, restrain inflationary pressures, reduce government spending by cutting out duplication of services and hence avoid tax increases and interest rate rises, have all been placed that much lower on the national agenda. In the interests of Australia, the decision must be reversed. Is it any wonder there is speculation that the Prime Minister may be otherwise occupied in the last week of February next year?

Mr Knight: He just wants to talk to the new Premier.

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

Mr FAHEY: It may well be that if this particular meeting is cancelled I might be talking to the new Prime Minister.

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

Mr FAHEY: As Premier of this State, it seems to me that the meeting will not be held in February as the Prime Minister may be otherwise occupied with an election. Why would he not want to mug the Australian public at this point of time?

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

Mr FAHEY: His budget is totally destroyed as he has no idea, nor do his Ministers or any member of his Government, about how to stop spending.

Mr SPEAKER: Order! I call the honourable member for Ashfield to order. I call the honourable member for Granville to order.

Mr FAHEY: Interest rates are going up and that is putting a dampener on the economy.

Mr SPEAKER: Order! I call the honourable member for Ku-ring-gai to order.

Mr FAHEY: There is absolutely no doubt that Labor plans new taxes. It seems the real reason the COAG meeting has been cancelled is that the Prime Minister may well be in election mode on that last Saturday of February.

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

Mr FAHEY: Calling off COAG is not in the interests of the Australian people. The meeting should be restored.

POLICE NUMBERS

Mr WHELAN: My question without notice is directed to the Minister for Police, and Minister for Emergency Services. Do police documents obtained under Standing Order 54 reveal that in some patrols up to 35 per cent of officers are seconded or on leave? Do the documents reveal that on 1 November more than 1,100 police officers were not on duty?

Mr WEST: It is incredible that the honourable member for Ashfield has such a lack of knowledge about how any New South Wales Police Service could work, let alone any organisation that works shift work.

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

Mr WEST: I should like to give the House an analogy. Qantas is an organisation with some 6,000 cabin crew and pilots. On any one day only 2,000 of those will actually be flying as the rest will be on holidays or other leave.

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

Mr WEST: By the time people take annual leave, sick leave and undertake other duties such as education, and everything else, the same analogy applies to the New South Wales Police Service. On any one day approximately one-third of police are available for duty. The honourable member fails to realise that information obtained under that standing order will reveal what has happened on 1 November. In an organisation that has over 12,000 sworn police officers, numbers will vary from one day to the next. It is quite clear from the annual report and from papers I have tabled in answer to a question from the honourable member for South Coast, as at 30 June the number of police officers was 12,718. On 1 November, the date to which the honourable member for Ashfield referred, the number was 12,678 - a figure even lower than the figure for 30 June. Today there are 12,912 police officers. The authorised strength of the New South Wales Police Service is 12,907. The present number of police officers is above the authorised strength. This Government is making sure that those men and women look after the people of this State.

NATIONAL PARK DECLARATIONS

Mr TINK: Will the Minister for the Environment inform the House of plans to create new national parks in New South Wales? Has the Labor Party opposed these plans?

Mr HARTCHER: The honourable member for Eastwood has had an ongoing interest in national parks in New South Wales. Today is a great day for the environment in New South Wales as 10 new national parks have been announced.

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

Mr HARTCHER: That is far more than the Leader of the Opposition did in his four miserable years as Minister for Planning and the Environment. This Government is a can-do Government. When I became Minister for the Environment the Premier gave me instructions that this Government was to be lean, clean and green. That mission has been fulfilled.

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

Mr HARTCHER: This Government has declared not only 10 new national parks; there are additions to existing national parks and there is a new nature reserve. These 10 new national parks can be added to the other national parks that this Government has created, or has attempted to create, since it has been in office, including the magnificent national park at Jervis Bay. This Government is making advances on the environmental front. Today I received messages of congratulations from the Colong Foundation for Wilderness and the Australian Conservation Foundation.

Mr SPEAKER: Order! I call the Minister for Consumer Affairs to order.

Mr HARTCHER: After all this great news for the environment, only one discordant voice has been heard around the Parliament criticising these proposals.

Mr SPEAKER: Order! I call the honourable member for Londonderry to order for the third time. I call the honourable member for Gordon to order. I call the honourable member for Kogarah to order for the third time.

Mr HARTCHER: Some months ago that great lover of the environment, Bob Carr, issued his policy on national parks entitled "No. 17. Gardens of Stone". He promised the people of New South Wales that he would establish the Gardens of Stone National Park.

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

Page 6127

Mr HARTCHER: That demonstrates the value of Labor's promises. The honourable member for Eastwood wittily and accurately interjected, "The Labor frontbench is the garden of stone".

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

Mr HARTCHER: The honourable member for Blacktown, when speaking in this House two nights ago - she is supposed to defend the environment - said:

> Though the Labor Party has found this to be a tough political issue it has been prepared to bite the bullet and say it stands for jobs ahead of national parks.

The attitude of the Labor Party was clearly demonstrated that night. The honourable member for Blacktown was determined to oppose the creation of the Gardens of Stone National Park. How different that statement was from a statement she made only four weeks earlier! We all know that four weeks is a long time in politics, but it is an eternity for the honourable member for Blacktown. Four weeks ago she told a well-attended public meeting at Parramatta that the mining industry posed a serious threat to national parks. She said that Labor's policy not to create a national park at the Gardens of Stone was the worst example of Labor policy, and that Labor's policy would change when the ageing local member was no longer around. That was the contribution of the honourable member for Blacktown to the debate on the creation of the Gardens of Stone National Park.

Mr SPEAKER: Order! I call the Minister for Industrial Relations and Employment to order.

Mr HARTCHER: Today's announcement will result in 70,000 hectares being added to protected land in New South Wales. It will increase the amount of land being held by National Parks Estate to 5.3 per cent, making it the second largest land-holder in New South Wales. The commitment of the National Parks and Wildlife Service and this Government to the environment is reinforced daily. One of the jewels in today's announcement is the establishment of the Gardens of Stone National Park - a magnificent 12,000 hectare national park - which contains unique rock formations, box and ironbark forests, the habitat of the endangered regent honeyeater and a great diversity of flora and fauna. This is the national park that the Labor Party wishes to mine, which is consistent with its declared policy at the Hobart conference only three months ago. The New South Wales Right muscled the numbers to get the motion through to allow mining activity in national parks. The representative of the New South Wales Right, led by the Leader of the Opposition and amply supported by other right-wingers, stuck their hands up on request to vote for mining activity in our national parks.

Mr Beckroge: Hear, hear!

Mr HARTCHER: The honourable member for Broken Hill says, "Hear, hear!" He and the honourable member for Blacktown strongly support mining activity in our national parks. The Government has stated clearly where it stands on this issue. Beautiful areas on the south coast are being protected in the Cudmirrah and Conjola national parks. One of the finest and most pristine areas of the State, the Diamond Creek catchment area, is now being protected.

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

Mr HARTCHER: In the Deua area the origins of trees in the Diamond Creek catchment of 740 hectares go back over one million years. They will now be protected for all time.

Mr SPEAKER: Order! I call the honourable member for Mount Druitt to order.

Mr HARTCHER: The support of the honourable member for Manly is much appreciated. This House would adopt a bipartisan approach to the creation of these parks if it were not for the attitude of the Australian Labor Party. The Leader of the Opposition has been shown to be phoney. We all knew he was. He and his frontbench repudiate the very policies that he makes. The Leader of the Opposition stands condemned on the issue of national parks in this State. He names national parks but he leaves it to this Government to proclaim them. This Government is looking after the environment. This Government, under this Premier, will continue to look after the environment in New South Wales. I am tempted to compare Labor's policy on national parks with its policy on aircraft noise, but that would be unkind to those members opposite who are suffering badly from the wrath of the people. It is not for me to rub salt into their wounds.

Mr SPEAKER: Order! I call the Minister for Sport, Recreation and Racing to order.

Mr HARTCHER: One comment that was made by demonstrators last week was that ALP stands for another lousy plane. When it comes to the environment other people have said that ALP stands for another lousy promise.

POLICE OPERATIONS

Mr KNIGHT: My question without notice is directed to the Minister for Police, and Minister for Emergency Services.

Mr SPEAKER: Order! I call the honourable member for Ku-ring-gai to order for the second time.

Mr KNIGHT: Do certified police documents reveal that on 1 November this year 25 per cent of officers

in the State's covert squads and drug squads were not on duty? How does this assist in the war against drugs?

Mr WEST: It is incredible that not only does the honourable member for Ashfield not understand the reality of an organisation the size of the New South Wales Police Service, but the same can be said also of the honourable member for Campbelltown, who supposedly understands all about these matters. He gets questions but he does not answer them.

Page 6128

[*Interruption*]

Mr SPEAKER: Order! The level of interjection is unacceptable to the Chair. A considerable number of members are on one call to order to three calls to order. I deem them all to be on three calls to order, and if any one of them attracts my attention again he or she will leave the Chamber.

Mr WEST: I am sure that the honourable member for Campbelltown will be able to recognise the questions that he failed to answer at an appropriate time. It is all very well to take one set of statistics and try to imply that the position is the same on every other day. As I said in reply to the honourable member for Ashfield -

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

Mr WEST: On 1 November the authorised strength of the Police Service was 12,907. That figure does not take into account that by February next year another 270 young probationary constables will graduate from the Goulburn Police Academy. That class will add the first 100 of the extra police the Government promised over the next five years. That is not all, as the K-Tell man says. In May another class of 263 young men and women will graduate. That class will include the second 100 of the promised 500 extra police. The authorised strength will continue to increase. Through the academy and the graduating class in February, the Government will add 170 new officers to redress the present shortfall and through the May class, 163 officers will be added.

We all knew that the honourable member for Ashfield would jump to speak about the report of the Auditor-General and the papers tabled the other day. We knew that he would try to claim that the extra 500 police officers to be taken on under the Government's policy are nothing more than a political stunt. Already 200 of those officers are in training. I wonder whether the honourable member for Ashfield or the Deputy Leader of the Opposition is prepared to ask those people whether they think they are part of a political stunt. The honourable member for Ashfield and the Deputy Leader of the Opposition should ask them whether they are real. They should ask whether the strains those people are gong through as they spend six months in the academy are real. Of course they are real. Those people would tell the honourable member for Ashfield and the Deputy Leader of the Opposition that they do not like being used as a political football.

Nobody is going to be fooled by the continual lies told by members opposite. We are hearing a continual stream of Labor lies. I have already proved that in the House in the past couple of weeks. Everywhere the Leader of the Opposition has gone and claimed that a particular town is in a crime wave the local inspector, who knows the facts, has the next day said that the claims are lies. That happened at Broken Hill, in the Blue Mountains and at Gosford, Grafton and Tweed Heads. How can Opposition members continue to hold their heads high? I have some bad news for the honourable member for Ashfield and honourable members opposite. The news is bad for them, but it is good for the people of New South Wales.

Before the Industrial Commission for ratification is an enterprise agreement that has been reached between the Police Commissioner as the employer and the Police Association. I hope that the agreement will be signed very soon, so that the Government can deliver one part of that agreement, the increase in wages to police. The other side of the agreement is the part that is good news for the people of this State. That part of the agreement will result in the equivalent of an extra 541 police officers on our streets. That comes through the trade-off of leave, and flexible rostering, which is fully accepted and understood by the Police Association.

Since the Labor Government was in office the Government has added a further 177 civilians to the police work force, which allows 177 police officers to go back on to the street. They are able to go back to looking after the people of this State. In the 1989-90 wage round, through productivity increases and through the civilianisation program, an extra 529 police officers were gained. As I said earlier, as the K-Tell man says, there is more to come. Two hundred and fifteen policemen and women have been taken off court security and prisoner transport, which has allowed them to go back to policing the streets of this State. When the Labor Government was in power we did not hear about beat police. Today the Government can proudly claim that it has recruited some 1,200 police to walk our streets.

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

Mr WEST: Eight hundred of those people are spending 10 per cent of their time working on or near trains or in and around railway stations. We hear that there is supposed to be an increasing crime wave on the trains -

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

Mr WEST: What the survey shows is that there has been an increase in arrests, which is a result of the work done by the Government to make sure that the police are around the railway stations and on the trains. I should like to reiterate some of the basic truths. The police strength in New South Wales today is above authorised strength. The beat police program is being extended. The recruitment program at Goulburn is running ahead of separations. Four courses are planned for 1995 and police numbers will continue to increase. If there were a rush of resignations it would be natural that the service would fall below strength. We understand fluctuations. Fluctuations enable more people to be put through the academy. The Government's record in making sure that there are more police on the beat and more police able to work in the police stations is better than what was ever achieved under the Labor Government.

Page 6129

HIV-AIDS PREVENTION PROGRAMS

Mr MORRIS: My question without notice is addressed to the Minister for Health. Can the Minister advise the House whether the incidence of new HIV infections is falling? What assistance is the Department of Health providing to ensure continuing education and prevention campaigns?

Mr PHILLIPS: This important question is timely, coming as it does on world AIDS day. It is appropriate today to reflect on the Government's policies in relation to this tragic epidemic, whether Australia is making progress and the programs that are in place. Without question one of the big reasons Australia has been successful in restricting the spread of HIV-AIDS has been a strong cooperative and bipartisan approach between Government, Opposition and Independent members of Parliament. Such an approach is rare in politics. A bipartisan parliamentary approach to this disease, at both Federal and State level, has made it possible to take some of the extremely hard decisions that have had to be taken to restrict the spread of the disease.

Another reason for the great advances made in this country is the tremendously cooperative community approach to government policy and direction. High-risk communities have been particularly cooperative. Sometimes that cooperation has been emotional and sometimes it has been difficult, but we as Australians can be proud that we have been prepared to take on the challenge and address the problem. The fundamental underlying policy that has been followed, and must continue to be followed, is the treatment of HIV-AIDS as a health issue rather than as a moral crisis. If decisions continue to be made on the basis that HIV-AIDS is a health issue, those decisions will continue to provide the great gains that have been made in controlling the spread of the disease.

The other three elements associated with policy are: working on educating people on HIV and AIDS;

working on prevention campaigns; and, an important element, providing treatment and care to those already affected. It is important that we make sure that we care for those who are suffering from and living with this disease in the same way that we care for anyone who is sick. That has been a fundamental factor in ensuring that we as a mature and caring society make great gains in this area. Australia and New South Wales continue to have a slower rate of new infections than most comparable Organisation for Economic Co-operation and Development countries. Since 1987 there has been a 74 per cent decrease in actual HIV diagnoses. That is a great achievement that bodes well for the future. The number of new infections in the homosexual population is also decreasing. New transmissions associated with blood transfusion have ceased. The needle and syringe exchange program has led to a decline in the number of HIV cases attributable to intravenous drug use.

America - and particularly places like New York - is on what are called the second and third waves of the HIV epidemic. It has spread to the drug community because of restricted programs in drug communities. Once the epidemic spreads to the drug community it is hard to prevent it spreading to females and to the heterosexual community. HIV-AIDS is not a disease that affects males only. However, in Australia it is restricted mainly to the male population. Steps must be taken to contain the spread of the disease. Although it has been hard for certain communities to accept needle exchange programs, those programs have dramatically restricted the spread of HIV-AIDS amongst the drug community and therefore into the community generally.

This year the budget allocation for HIV-AIDS IS $70.2 million, which is 85 per cent more than in 1988-89. Last Saturday I had the pleasure of attending the unfurling of the quilt at Darling Harbour on CounterAID Day. The quilt will be taken to various country areas, and I would recommend that honourable members in those areas participate in the unfurling of the quilt. The quilt is now the size of a soccer field, and commemorates a range of people who have died from this devastating disease - mostly young men. It is a moving experience to see families and partners of these victims come together in a demonstration of remembrance of those who have died from the AIDS epidemic.

Last week the Government announced a further grant of $5.2 million, $1.3 million of which will go to the AIDS Council of New South Wales to establish new accommodation facilities; and $400,000 to establish a network of retreats for people who are HIV-positive. Part of that program includes six dementia care beds in the city area to care for those living with AIDS who have developed dementia. There is a $1.2 million increase for HIV-AIDS programs, targeting 14 at-risk groups including drug users, young people and health care workers. There is a mistaken notion that this disease is restricted to one part of the community. It is a health issue that confronts the whole community. I notice there are some young people in the gallery. As they grow up they must take care to ensure that they are not hit with this disease, because they get only one life.

I note the retirement of Ita Buttrose as Chairman of the AIDS Trust. Over the years she has been a tremendous advocate and a leader in gaining community support for the AIDS Trust and its work in caring for those living with AIDS. I also recognise Peter Grogan, who is the retiring president of ACON. He, Don Baxter and staff have done a tremendous job in their communities in targeting education programs and caring programs and they have been the working force to ensure these gains in Australia, and particularly in New South Wales. The new president, Bruce Maher, has big shoes to fill but I am sure that he and his colleagues will do a great job in cooperation with the Government and the rest of the community in controlling the spread of HIV-AIDS in Australia.

PROTECTED WITNESS JOHN GAZZARD

Mr SCULLY: My question is directed to the Premier. Did the Premier admit yesterday that there is no legal impediment to the prosecution of drug lord John Gazzard? Is it now seven months since Gazzard

admitted he lied on oath, in breach of the undertaking not to prosecute which was given by the Attorney General? Why has the Government not already prosecuted Gazzard? When will the Premier act?

Mr SPEAKER: Order! I warn honourable members once more that many of them are on three calls to

order.

Mr FAHEY: I have been advised by the Attorney General that other operational matters, which are extremely delicate, are pending in relation to Mr Gazzard. These matters deal with extremely sensitive information. It is almost indecent, and it is certainly careless, for the Opposition to risk jeopardising ongoing operations. However, that has never stopped the honourable member for Smithfield before. It is gross negligence to raise issues such as this in the public arena and without any attempt to ascertain the facts. If the honourable member has any concerns about such matters he knows he can take them to the appropriate authorities, such as the Independent Commission Against Corruption or the royal commission. He does not need to raise them in this Parliament.

MACARTHUR MIGRANT RESOURCES CENTRE

Dr KERNOHAN: My question without notice is addressed to the Minister for Multicultural and Ethnic Affairs, and Minister Assisting the Minister for Justice. Can the Minister advise the House of attempts by the Labor Party to take control of the Macarthur Migrant Resources Centre in order to manipulate the centre for political purposes?

Mr PHOTIOS: The honourable member for Heffron has woken up. There are increasing numbers of reports of Labor Party attempts to take over a large number of government and non-government organisations for purely political purposes. This matter is of great concern not only to migrant Australia but to the community at large. The Macarthur Migrant Resources Centre provides a vital service to migrants and people of non-English speaking background in that district. It employs 20 staff in Campbelltown and has a budget in excess of $600,000.

Mr McManus: That is not your money.

Mr PHOTIOS: More than 50 per cent of its budget comes from the State Government, so the honourable member for Bulli is wrong. None of this money comes from the Ethnic Affairs Commission; it comes from a range of Government organisations under the State umbrella. I will refer to the Federal Government's contribution in a moment, because the threats from the member of the Opposition about that allocation are outrageous. Members of the Opposition should hang their heads in shame. The State Government provides $50,000 for an Arabic community development worker; $30,000 for a Vietnamese community worker; and $100,000 under the home and community care program for a full-time worker and four assistants. The Migrant Employment and Qualifications Board provides a specialist migrant placement officer and an assistant, and the Office of Youth Affairs funds the circuit- breaker program, providing one full-time worker and four part-time positions. That amounts to $310,000.

This important migrant resource centre, which plays a pivotal role with migrant communities in the electorate of Camden, held an annual general meeting on 12 November this year. At that meeting an attempt was made - not for the first time - to stack the Macarthur Migrant Resources Centre with Labor Party members of both English speaking background and non-English speaking background. An attempt was made, even at the last minute, to enrol Labor Party member after Labor Party member in order to take control of the organisation and use it for political purposes. It is clear that this stack, which has corrupt overtones, was organised and orchestrated by none other than the Labor Party candidate for the seat of Camden, Peter Primrose.

Mr Knight: Where is the evidence?

Mr PHOTIOS: There is plenty of evidence. The honourable member for Campbelltown should know - he was there!

Mr SPEAKER: Order! The Chair has tried, with a patience beyond what should be expected of it, to be fair to members on both sides of the Chamber. Twice already I have warned members who have been called to

order that they are all deemed to be on three calls to order. Those members number 33. My final warning is that if any one of those members attracts the attention of the Chair again, that member will be removed from the Chamber.

Mr PHOTIOS: I am astounded that, of all the honourable members in this House, the honourable member for Campbelltown is the one to get the most worked up about this issue. He attended the meeting under the guise of its returning officer - a returning officer from the same party that was stacking, up hill and down dale, the Macarthur Migrant Resources Centre in order to use its budget and its staff for cheap political excuses. It is inexcusable. The *Macarthur Chronicle* refers to it as a power grab. I have to say it is much more than that. The most recent information flooding into my office from Labor Party members indicates something far more serious - corrupt practices that have been embarked upon by both Peter Primrose and the Labor Party in their attempt to stack the centre.

It has been brought to my attention that illegal and irregular false and forged nomination forms were presented to the meeting. They were prepared by Labor Party members. Sergeant Trichter of the Campbelltown police was told by one Labor Party member, in a confession at the meeting, that the documents were forgeries, that the signatories and the seconders did not exist, and that the Labor Party had embraced this campaign in order to stack the organisation. To whom did Sergeant Trichter of the Campbelltown police confess that information? He confessed it to none other than the honourable member for Campbelltown.

Page 6131

We have the forged documents here. This smacks of corruption of the worst kind. It also smacks of the sort of abuse that brings multiculturalism into disrepute. It is humiliating for ethnic communities to find themselves used like this - when people such as Peter Primrose's campaign director, use a mobile phone, busy orchestrating the whole affair. Wayne Warton was running the whole show on his mobile phone. He walked the members in to the meeting. The majority of those members were from the Camden branch and made themselves available to stack this little operation.

The situation becomes even more serious when we see the Federal Government in unison on this attack. That became apparent with the arrival of another Labor Party member at that meeting. On this occasion, it was a Federal colleague - I am sure that he must have been a friend of Laurie, who was there to help the State branch. I am talking about Chris Haviland, who is the ALP member for Macarthur. He went into that meeting, as did Councillor Paul Lynch, who is a prominent, infamous Labor Party identity - as he is known in the area - and demanded that the annual general meeting be deferred. He demanded it be deferred when he realised that the meeting had to be called off because the forged nomination forms simply would not stick, and Sergeant Trichter was not accept them. Not only did he argue that the meeting should be deferred, but he had the hide - this man who represents a high public office and is an Australian Labor Party member of Parliament in this nation - to threaten to defund the Macarthur Migrant Resources Centre unless he got his way. In other words, unless the centre was prepared to wear the Labor Party stack - to go along with these corrupt practices and to help Peter Primrose in these disgraceful, callous, calculated and corrupt attempts to take over the centre for his cheap political ends - the centre would lose its funding.

This is not the first time that it has happened. Recently, the Federal Minister for Immigration and Ethnic Affairs, Senator Bolkus, closed down the migrant resources centre in north Perth because a close personal friend of his was put off. These allegations have been made in the Federal Parliament, and the Federal Minister has no answer. The migrant resources centre in north Perth lost its funding, and the people at the Macarthur Migrant Resources Centre are worried that they will lose their funding. The honourable member for Camden, Liz Kernohan, has told me, "I want to champion the cause of my migrant community. The money must stay and the centre must stay, but we want it clean of corruption. We want it clean of Peter Primrose and we want it clean of Michael Knight". I can tell the people of Macarthur that their battler, the honourable member for Camden - Liz Kernohan - will ensure that they keep their centre and their State funding, and that they get the delivery of services that they deserve. One of the members who attended the meeting, who was quoted in the *Macarthur Chronicle,* was the centre's treasurer and publicity officer, Mr Ken Doyle. He said:

We have never before had any political interference. Now the left-wing faction of the Labor Party is trying to stack the committee. I think Labor Left-wingers want to take control of the management committee so they can stick their own people in and give themselves jobs.

That way they would be free to lobby the community while on a government payroll. I am calling on the ALP to pull their left-wingers into line. They can stack their own branches to their heart's content, but I want them to leave community-based organisations alone.

If Opposition members cannot govern their party, they have no right to govern the State. They must start working with the people, not against the people. This is a prime example of the way that they act time and time again. I shall conclude by simply drawing the attention of the House to one of the most sinister plots involved in this whole affair: the attempt to reappoint, as the executive director of the migrant resources centre, another prominent Labor Party dignitary in the local area and a former Labor councillor, Ms Mary Seaman. Mary Seaman was removed from her position recently. The truth is that this stack is to get rid of the honourable member for Camden, to manipulate the migrant communities, and to return Mary Seaman to the payroll of the Macarthur Migrant Resources Centre. It is an appallingly orchestrated corrupt attempt at manipulating the ethnic communities, and it does no service to the Australian Labor Party. The honourable member for Campbelltown has been described as the Nightmare on Macquarie Street for the way that he is carrying on. Government members pledge their continued support for a fair, equitable and apolitical Macarthur Migrant Resources Centre. That is the word from the battler's friend out there, the honourable member for Camden, and that is the assurance from the State Government.

LOOK AT ME NOW HEADLAND OUTFALL ABORIGINAL SITE

Ms ALLAN: My question without notice is to the Deputy Premier, Minister for Public Works, and Minister for Ports. Has the Look At Me Now Headland at Coffs Harbour been identified as an Aboriginal site of high significance? Will the Government now stop construction of the sewage outfall and repair the damage already done?

Mr ARMSTRONG: There is no doubt that the Opposition is determined to ensure that the people of Coffs Harbour, particularly in the Look at Me Now Headland area, do not get an adequate sewerage system. But the Government is just as determined to ensure that those who are entitled, by any qualification, to an adequate sewerage scheme will get it. The Government will support the Coffs Harbour City Council through thick and thin to ensure that residents have reasonable services. The honourable member knows very well the results of a recently released report and I will inform the House of any progress. The Government is committed entirely to ensuring that the people of Coffs Harbour receive a proper and adequate sewerage scheme.

Page 6132

BUILDING SERVICES CORPORATION REFORMS

Mr FRASER: My question without notice is directed to the Minister for Consumer Affairs, Minister Assisting the Minister for Roads, and Minister Assisting the Minister for Transport. Can the Minister provide an update on the progress of reforms to the Building Services Corporation? How are the reforms assisting New South Wales consumers?

Ms MACHIN: Through the honourable member for Coffs Harbour I congratulate his brother, a builder, on recently picking up an award at the Housing Industry Association awards. New South Wales continues to lead the country out of recession, and the building sector is no exception, showing the strength of the New South Wales economy despite the worst efforts of the Federal Government and its interest rate policy. According to the Australian Bureau of Statistics, private sector residential building activities in the 1993-94 period increased 28 per cent compared with the 1991 period. The statewide value of the project totalled $4.5 billion. The value

of residential alterations and additions for the period totalled more than $1 billion.

Since the Building Services Corporation became part of my portfolio just on a year ago, it has undergone a huge shake-up aimed at making it much more focused on customer service, and promoting the industry to ensure that consumers' needs are better met than they have been. About one month ago it introduced a range of consumer education initiatives entitled, "Don't Let Year Dream Home turn into a Nightmare." That campaign should be turned into a Mascot-based campaign, because in the past 21 days the dream homes of many people in that area have turned into nightmares. As part of the package, the initiatives have been designed to help consumers who are building, renovating or extending their homes to understand all aspects of the building process and to avoid building problems.

Products such as the plain English home building contract, a free home owner's building kit, and the development of a plain English small work contract are designed to open up clear channels of communication between builders and consumers to save both parties time and money. Each initiative aims to educate and inform consumers, builders and tradespeople that disputes can be resolved effectively and efficiently or, better still, avoided. The cornerstone of these initiatives is the establishment of a statewide network of 12 home building advisory centres. The Government, the Building Services Corporation and members of the home building industry acknowledge that customer satisfaction is an important part of business. Communication is the key to solving disputes. The advisory centres will ensure that consumers, builders and tradespeople have access to a wide range of advice and information. Earlier this week I had the pleasure of officially opening the State's first home building advisory centre at Blacktown.

Mr SPEAKER: Order! There is too much audible conversation in the Chamber. I remind members, including the honourable member for Charlestown, that a member may be called to order also for engaging in audible conversation. If that member is on three calls to order, he or she will be removed from the Chamber.

Ms MACHIN: It is interesting that the honourable member for Charlestown was conversing with the honourable member for Blacktown, because it was in her electorate that I opened the centre. She was a notable absentee from the opening. The mayor attended, as did other local representatives, but not the honourable member for Blacktown. We know that she is more interested in the natural environment, although one would have to wonder after her reaction to the decision by my colleague today. I would have thought she might have liked to attend the opening to learn a little bit about the built environment and how she might be able to assist consumers in her electorate. The building advisory centres will be spread throughout 12 locations around the State. They will be in areas of high building activity, and Blacktown in Sydney's west is an example of high building activity.

It is very interesting to look at the figures. According to the last census, the population growth in the Blacktown-Baulkham Hills area increased by 18 per cent compared with 4.85 per cent for Sydney as a whole since the previous census. This year a total of 3,616 building applications were approved for housing developments in the area, worth over a staggering $386 million. The Building Services Corporation will be targeting its shopfront activities to where building is occurring. Existing offices at St Leonards and Wagga Wagga will be converted to advisory centres, while the Liverpool, Newcastle, Coffs Harbour, Armidale, Orange and Wollongong offices will be relocated to new premises to ensure easy access for consumers and high visibility. Additional home building advisory centre sites have been chosen to extend these works across the State to service areas where there is a high level of building activity. Sites for new centres include Port Macquarie, Tweed Heads, Blacktown - which is already operational - and Erina.

The advisory centres will serve as all-inclusive information shops where people can discuss the various issues relating to home building projects in a friendly and informal setting. I recommend that all honourable members, particularly members representing western Sydney, go to the Blacktown centre - and I include the local member - and have a look at the home building advisory centre. It looks fantastic. The services and information provided are top class. Perhaps, like many of us, the honourable member will be renovating over the Christmas holidays and a visit to the centre might come in handy.

The centres will be staffed by advisory and technical officers who will provide information and advice to consumers about all aspects of the building
Page 6133
process and the industry. As well as obtaining personal advice, consumers will have access to an extensive range of services in a one-stop shop location. The home owners building kit, which is only available through the centres, and brochures, books and videos on all aspects of the building process will be available, as well as information on how to find the right builder or tradesperson, which is something that is of crucial importance to all people undertaking building. Technical advisers will provide information regarding contracts, work standards and regulations. They will also help consumers with advice on how to lodge a complaint and on the dispute resolution process. The centres will handle owner-builder permits and contract licence applications, as well as renewals for contractors.

As part of the Government's commitment to improving high-quality service in the home building industry, I have recently approved nearly $1.1 million in funding for developing an extensive and far-reaching range of consumer education projects. The funding will be distributed between the Building Services Corporation, other Government agencies and non-profit, private sector organisations. As I have outlined, the Government is committed to improving the home building industry for the benefit of consumers throughout the State. The Government has taken unprecedented action to improve services for the consumer as well as for the home building industry, to make sure that customer service is second to none. The Government's policy is quite clear, but the Opposition has not put forward any policy, and does not have a clue what its policy might be on the building industry. That sort of approach by the Opposition will ensure that the coalition parties retain the Treasury benches after 25 March next year.

PROTECTED WITNESS JOHN GAZZARD

Mr WEST: Yesterday I was asked questions in relation to a Mr Gazzard. It is quite obvious that over the last couple of days this House has heard very cynical and very grubby attacks by the Opposition in an attempt to make political capital out of this House. As I indicated yesterday, those who have allegations should take them to the royal commission. It is notoriously easy and underhanded to come into this House, to avoid any responsibility, to make allegations in this place, but not to back them up with evidence. Yesterday's episode was not as grubby as the attack this morning by the honourable member for Heffron, who came in here with a statutory declaration from a person who is a known, convicted criminal. It is very easy to to get one's name in the newspapers.

Mr Gazzard may still well be a witness in up-coming criminal proceedings and in possible proceedings to confiscate the proceedings of crime. I can also confirm that today I have been advised by the Commissioner of Police that Mr Gazzard is presently within the Police Service witness protection scheme, and has been since January 1990. However, it has been a long and sound policy of governments of all political persuasions not to divulge the specifics of any security measures taken to protect any individual. To do so would not only jeopardise the individual's safety, but also discourage others from coming forward with evidence to assist authorities in criminal investigations. Why has this matter has been raised at this time? I am advised by the Commissioner of Police that the royal commission first signalled its interest in this matter on 7 November last. The Police Service files have been produced. It is quite open for the Parliament to ask, as the royal commission is moving into this very sensitive area, why members opposite are now throwing their weight behind somebody who might well be trying to frustrate those proceedings.

MACARTHUR MIGRANT RESOURCES CENTRE

Personal Explanation

Mr Knight: I seek leave to make a brief personal explanation.

[*Interruption*]

Mr SPEAKER: Order! I warn honourable members that the calls to order made during question time still apply.

Leave granted.

Mr Knight: I will be brief. Earlier today the Minister for Multicultural and Ethnic Affairs accused me of participating in what he described as corrupt practices at the annual general meeting of the Macarthur Migrant Resources Centre. I wish to place on record that I was invited to that meeting by the president, Jeffery Trichter, and the treasurer, Kevin Doyle - the two people that the Minister quoted with such approval today - in my capacity as a member of Parliament, to do two things: first, to speak to the meeting as an MP; and, second, to count ballots that may occur, a courtesy often provided by members of Parliament to organisations as diverse as Legacy and the Red Cross. That was the extent of my role in the meeting, something that the Minister should have been aware of had the honourable member for Camden been at the meeting. But, like the candidate for Camden -

Mr Hartcher: On a point of order: the honourable member for Campbelltown has the right to make a personal explanation of his conduct, poor though it may have been, but he has no right to transgress outside the bounds of personal explanation to go into the conduct of the honourable member for Camden or any other member of this House.

Mr Knight: On the point of order: all I was seeking to do was to provide some outlet for the Minister for Multicultural and Ethnic Affairs to explain why he was ill informed.

Mr SPEAKER: Order! The honourable member for Campbelltown is seeking to debate the matter under the guise of a point of order. I presume he has concluded his explanation?

Page 6134

Mr Knight: Not completely.

Mr SPEAKER: Order! I uphold the point of order on the basis that the honourable member has gone beyond the scope of a personal explanation. He assured me that his personal explanation would be brief. However, he has been speaking for some time. I ask him to conclude as quickly as possible.

Mr Knight: In conclusion, I was concerned about some matters that occurred at the meeting. Consequently -

Ms Machin: On a point of order: the honourable member cannot continue to debate the matter. The issues that were discussed at the meeting are not relevant to how the honourable member's character may have been impugned. He is flouting the ruling just given.

Mr SPEAKER: Order! I uphold the point of order. The honourable member for Campbelltown is well aware that the purpose of a personal explanation is to explain how a matter or matters impugn the character of that member. It is in order for the member to provide a short explanation of the facts to refute the allegation. However, the member may not debate the issue. I presume that the honourable member has concluded his personal explanation.

Mr Knight: I have something very brief I would like to add.

Mr SPEAKER: Order! As long as what the member wishes to add is factual and bears directly upon

the way in which his character was impugned, he may proceed.

Mr Knight: Absolutely. Can I say, hopefully without interruption from points of order, that I was concerned about some matters that occurred at the meeting.

[*Interruption*]

Mr SPEAKER: Order! I wish to hear from the honourable member for Campbelltown.

Mr Knight: As a result, on the next working day, I wrote to the Minister for Immigration and Ethnic Affairs in the Federal Parliament to record my concerns.

LEAD CONTAMINATION

Consideration of Urgent Motion

Mr West: I indicate that the Government will comply with the request to be made pursuant to standing orders.

Mr HUNTER (Lake Macquarie) [3.35]: I move:

That pursuant to Standing Order 54 this House orders to be laid before it and made public without restricted access by 7.00 p.m. on Friday 2 December 1994 the following documents:

All existing relevant reports, test results and information on lead contamination, lead in air, blood lead levels and the effect of lead on health from the following Departments, Boards, Authorities, Corporations and Commissions namely:

* Department of School Education

* Water Board

* Hunter Water Corporation

* Maritime Services Board including Port Authorities

* TAFE Commission including child care centres

* Department of Planning

* Department of Community Services including child care centres

* Department of Industrial Relations, Employment, Training and Further Education

* Electricity Commission of New South Wales including Pacific Power and Power Coal

* Department of Mineral Resources

* Property Services Group

* New South Wales Public Works

Mr Speaker, information uncovered by the -

Mr SPEAKER: Order! In view of the undertaking given by the Minister for Police, and Minister for Emergency Services, and in accordance with longstanding convention, there is little point debating a matter with which the Government has indicated it agrees. I suggest that the honourable member for Lake Macquarie put the matter formally. There is no purpose in the House debating a matter about which the Government has given a firm indication of acceptance.

Motion agreed to.

HELENSBURGH LAND USE COMMISSION OF INQUIRY

Matter of Public Importance

Mr McMANUS (Bulli) [3.38]: I move:

> That this House notes as a matter of public importance the need to zone for environmental protection lands at Helensburgh adjoining the Royal National Park and within the Hacking River Catchment vital to the continuing integrity of this area of State heritage significance.

Since 1988, first as the member for Heathcote, then as the member for Burragorang, and currently as the member for Bulli, I have been continually frustrated by Government inaction in zoning lands in the Helensburgh area. I believe it is time the Government took decisive action in that regard. The totally unnecessary commission of inquiry into land use around Helensburgh commenced its hearings on 20 July, after a delay in proceedings of nearly three weeks. That inquiry received an unprecedented amount of evidence from all parties and finally closed precisely 19 weeks later on 15 November. The inquiry began in controversy, with prospective parties to the inquiry announcing that they were subject to civil litigation proceedings by one of the key property developers. Local Helensburgh residents believed they were being disadvantaged and were afraid to present their cases to the inquiry. The real fear residents experience arises from their attempts to do their duty by speaking out in defence of Australia's oldest park.

Those brave citizens worked to defend the Royal National Park from the despoiling effects of adjoining urban development. Their reward for their public service has been civil litigation, not for defamation but for conspiring to damage the interests of developers and a developer's company. What a farce! From that dismal beginning the inquiry travelled through endless submissions by developers and developers' consultants introducing a redesign of the urban development on the headwaters of the Hacking River. Yet, despite spending over $1 million, the developers failed to prove their case that urban expansion will not cause significant environmental degradation. Decisive evidence against the developers came from three impartial and authoritative Government departments - the Department of Water Resources, the Environment Protection Authority and the National Parks and Wildlife Service. None of those departments was persuaded that the development would protect water quality and avoid damaging the flora and fauna of Australia's most visited national park. The Helensburgh commission of inquiry was a waste of time.

Mr Hartcher: Kosciusko is the most visited park. The honourable member cannot get his facts right.

Mr SPEAKER: Order! I call the Minister for the Environment to order.

Mr McMANUS: It will be interesting when the people of the Illawarra and Australia find that the Minister wants to interject during debate on such an important issue. It would hard to find anywhere in New South Wales a place more unsuitable than Helensburgh for urban expansion because of its steep terrain and its proximity to the Royal National Park, the Hacking River, the Port Hacking estuary and the green belt which stands between the Sydney sprawl and Wollongong.

The Minister for Planning pandered to the demands of those who wanted an inquiry: a handful of ruthless developers. He chose to ignore the honest efforts of the Wollongong City Council and the Sutherland Shire Council to declare an environmental protection zone in key non-urban areas around Helensburgh. He has allowed uncertainty to block council's decisive action to enforce stronger environmental protection measures for the Hacking River catchment. He has wasted taxpayers' money that would have been better spent remediating stormwater run-off problems in the existing urban areas in the headwaters of the Hacking River. The Government should support Sutherland and Wollongong councils by providing funds with the assistance of the Environment Protection Authority to implement a staged enforcement program to remove all illegal land users who are polluting the catchment headwaters of Australia's oldest national park. The Government should fund stormwater controls and regenerate the disturbed land.

Feral animals, including pigs, still run around Lilyvale near Camp Creek on unfenced rainforest land adjoining the national park. Horse riding establishments holding hundreds of horses are operating like equestrian feedlots without any pollution control. Parts of the Stanwell Tops village and the village of Otford remain unsewered. Many dwellings discharge sewage illegally instead of using the approved pump-out system. The total catchment philosophy must be applied to this catchment If it is not, the diverse wildlife population of the Royal National Park will decline until the park becomes just another piece of degraded bushland surrounded by housing. The National Parks and Wildlife Service considers the Royal National Park to have a diversity of wildlife communities and land systems that are unique in New South Wales for an area the size of the park.

If significant urban development proceeds at Helensburgh, it is predicted that fauna species will be lost from the park, common fauna species will become rare in the catchment, rainforest will be degraded by weeds and fire, the Hacking River will become a weed-infested ditch, Audley will be unusable for recreation, and the National Parks and Wildlife Service will have to spend more of its limited funds in an attempt to repair this avoidable damage. The $85,000 expended by Wollongong and Sutherland councils on consultants and barristers would have been better spent on resolving the existing problems in the estuaries surrounding the national park. The staff of Wollongong City Council have spent more than 1,000 hours at a cost of $35,000. I am advised that Sutherland council has committed a similar amount of resources. That has had a serious impact on the workload of both councils, to the extent that the work of their planning departments is as much as four months in arrears.

One can only speculate on the number of trees that have been cut down to supply the tonnes of paper used in this futile and wasteful experience. The inquiry was surrounded by emotive and misleading statements by the pro-development lobby. The community was given false expectations. Promises of high schools, hospitals, specialists services, and better shopping facilities were high on the agenda. These expectations have always been extinguished by government departments and dismissed by intelligent residents of the community. Twice during the inquiry both Sutherland and Wollongong councils were so frustrated that they almost lodged a formal complaint against the commissioner, Mr Carleton, who was advised verbally of their concerns. His failure to compile a proper timetable and a list of those required to appear was a contentious issue for the councils.

The councils were also concerned about the commissioner altering the dates and times that had been set for the appearance of witnesses. That created for the councils and other parties many thousands of dollars of unnecessary expense in relation to the appearance of consultants and legal representatives who were not required. On two occasions one witness paid for his consultant to fly to Australia from New Zealand, only to be frustrated by changes to the timetable. I am advised that on the second occasion the developer alleged that the independent consultants hired by the councils were

given instructions to provide a biased report. The commissioner appeared to agree with that allegation. After Mr Carleton was advised that this allegation was strongly refuted and that a Queens Counsel was being briefed to challenge the claim, the developer withdrew the claim and accepted councils' integrity. The community has suffered inconvenience, stress and hardship for many years because of this issue. The unnecessary imposition by the Minister of an inquiry has caused the councils, the community, and ratepayers considerable pain, stress and financial loss. I place on record my gratitude to the Mayor of Sutherland, Genevieve Rankin, to Councillor

Paul Smith, to the Lord Mayor of Wollongong, Councillor David Campbell, and to Councillor Bill Barnetson, who have been vocal in their opposition to this disastrous plan.

Not one Liberal Party member of Sutherland council has disagreed with the views of those councillors. It is time members representing the electorates in the relevant area - the honourable member for Cronulla; the Minister for Sport, Recreation and Racing, the honourable member for Sutherland; and the Minister for Health, the honourable member for Miranda - supported Wollongong City Council, as they indicated they would many years ago.

I call on the Government to support the moves by Sutherland and Wollongong councils to restore and protect the Hacking River catchment and, most importantly, to rezone the land around Helensburgh for environmental protection, as recommended by the Wollongong City Council. The Minister has overruled that recommendation, but has clearly indicated at the same time that the final decision rests with the council. Nothing will change except the amount expended by the councils. The same deliberations will have to be made by the same people many months down the track.

Mr HARTCHER (Gosford - Minister for the Environment) [3.46]: The Australian Labor Party has been monstrously hypocritical in relation the third runway. Having been responsible for the decision to build the runway, it is now attacking it. The Opposition is equally hypocritical in relation to Helensburgh. Having been responsible for placing Helensburgh on the urban development program in 1985, the Opposition now seeks to gain political advantage from that decision. Who was the Minister responsible for placing Helensburgh on the urban development program? None other than Bob Carr, the then Minister for Planning and Environment. Although Bob Carr was hypocritical in relation to this issue, the honourable member for Bulli would have to get the award for the most monstrous hypocrite in this place. An article in the *Wollongong Advertiser* of 17 February 1982 reported:

> Ald. Ian McManus believes the area is "just screaming our for development.
>
> "We just want the facilities that other towns have", he said.

The article also reported that he would lead a deputation to the environment and planning Minister to discuss the town's development. The article continued:

> Ald. McManus said State Government departments had spent millions developing Menai and Campbelltown and yet was reluctant to do the same thing in Helensburgh.

This is the man who wanted Helensburgh developed, who got his little mate, Bob Carr, to put Helensburgh on the urban development program, and who now seeks to remove Helensburgh from development.

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

Mr HARTCHER: What monstrous hypocrisy! There is much hypocrisy in this place, but that behaviour would have to be the ultimate! What did Joseph Glascott, the environment writer for the *Sydney Morning Herald*, say about this issue? He said:

> A spokesman for the society -

that is, the Total Environment Centre -

> Mr Jim Donohoe, said the local Labor Party branch and Wollongong Council were in disrepute because of the autocratic way in which Mr Jackson -

the then local member -

and the president of the Australian Labor Party branch, Mr Ian McManus, promoted the huge development plan.

According to Joseph Glascott, Rex Jackson and Ian McManus were pushing the huge development plan. What monstrous hypocrisy! Oh, what a tangled web we weave when first we practise to deceive! The honourable member for Bulli has been caught out by his monstrous lies.

Mr McManus: That was 12 years ago.

Mr HARTCHER: Yes, the honourable member has had a conversion on the road to Damascus. The so-called honourable member is seeking to aid and abet the campaigns of Genevieve Rankin and Paul Smith, two of the weakest and most hopeless candidates one could ever find. That really says something for the Labor Party. So far members of the Labor Party have got their mates on Sutherland Council to spend about $60,000 on leaflets attacking this Helensburgh proposal. They are using $60,000 of ratepayers' money for their own purposes. The honourable member for Bulli thinks that it is witty and clever that the ALP is using Sutherland council for this purpose. What chance would anyone have with a member like the honourable member for Bulli, who promotes a program and, when it suits his purposes, he denigrates that program? This Government has made it clear that it will protect the Royal National Park and the catchment areas involved. Accordingly, the Government has decided to investigate the validity of any development claims in the Helensburgh area. Nothing like that was ever done while the honourable member for Bulli was pushing this issue.

The Government, through the Minister for Planning, has established a commission of inquiry, chaired by Dr Carleton, to inquire into the future of the Royal National Park. This was done because Wollongong council, after considering the draft local environmental plan, decided to rezone certain lands

from non-urban land to environmentally protected land. This inquiry is not about urban development; it is about managing the consequences of any land-use planning and development decisions on the environment, in particular the Hacking River and its tributaries and the Royal National Park and associated habitat corridors. I welcome the support that I have received from the honourable member for Cronulla, the Minister for Sport, Recreation and Racing and the Minister for Health. I have received nothing from the honourable member for Bulli. The honourable member for Bulli, who introduced this matter of public importance, has said nothing to me and has never raised this matter in this House. The honourable member for Bulli is in an activity-free zone.

Mr McManus: On a point of order: the Minister for the Environment has just said that I have never raised this matter in the House. The record will show that I have.

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

Mr HARTCHER: The honourable member for Bulli is in an activity-free zone and his party is in a policy-free zone. But the honourable member for Bulli is certainly not in an hypocrisy-free zone. The Government believes that land-use planning is best dealt with at a local level by appropriate councils. Since this Government came to office it has made a commitment not to interfere grossly with the prerogatives of local government for land-use planning, which commitment is well respected by local government. Nonetheless, where important environmental considerations are involved, the Government will establish appropriate commissions of inquiry to ensure that the environment is properly looked at and all aspects are properly evaluated.

As a result of representations to the Minister for Planning by the honourable member for Cronulla, the Minister for Sport, Recreation and Racing and the Minister for Health, this inquiry was established. As a result of the strong stand of those honourable members the Government will ensure that, no matter what, the Royal National Park and the Hacking River and its tributaries are properly and fully protected. The report, which has been under investigation by the commission of inquiry, is soon to go to the Minister for Planning. The Minister has given undertakings that he will refer the commissioner's report to council. He has also given an undertaking that he will not rezone land at Helensburgh against council's wishes. Wollongong council has only to pass a motion saying that it does not want it, once it has seen the report and the Minister has given the

Parliament an undertaking.

Mr McManus: They have done that.

Mr SPEAKER: Order! The honourable member for Bulli will have the opportunity to reply.

Mr HARTCHER: The Department of Planning and the National Parks and Wildlife Service made submissions to the inquiry. The Government has made it crystal clear that it will protect, as it always has, the Royal National Park and the Hacking River. The Australian Labor Party, through the then Minister for the Environment, Ros Kelly, pledged financial assistance to rehabilitate that park after the January bushfires. The present Federal Minister, Senator Faulkner, reneged on that promise. The Labor Party has done nothing for the Royal National Park. It has done nothing to rehabilitate that park. It has given it no support. The honourable member for Bulli never asks me how the rehabilitation is going; he shows no interest at all. He never comes to me and asks, "What is happening with the Royal National Park?" He does not care less. When I inspect the Royal National Park the honourable member for Bulli never turns up. He never shows the slightest bit of interest. He is in a policy-free zone and an activity-free zone. He is the greatest hypocrite this House has ever seen.

Mr SPEAKER: Order! I call the honourable member for Bulli to order. I call the honourable member for Blacktown to order.

Mr HARTCHER: A report in the *Sydney Morning Herald* states -

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

Mr HARTCHER: The newspaper report is entitled "Shadow over Heathcote".

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

Mr HARTCHER: The article states:

> . . . the president of the ALP branch Mr Ian McManus, promoted the huge development plan.

The honourable member for Bulli followed the footsteps of his good mate Rex Jackson, his campaign manager, into Parliament. Members of the Labor Party used to call Rex Jackson "Honest Rex". They would say, "Honest Rex will look after that". There was a bit of development here and a bit of development there and few prisoners here and a few prisoners there. Honest Rex came to the party. Honest Rex was going to come to the Helensburgh party too because he and his branch president, Ian McManus, were promoting what Joseph Glascott called "the huge development plan". But there is more. There is always more when the honourable member for Bulli is involved. On 30 August, in that excellent newspaper the *Illawarra Mercury*, the Australian Labor Party was accused of pulling a swifty on developers. Alderman Tobin said, "ALP candidate Mr Ian McManus said he favoured the development - [*Time expired*.]

Ms ALLAN (Blacktown) [3.56]: History will record the Fahey Government's attempts to permit the development of environmentally sensitive land at Helensburgh as one of the last dying acts of a desperate government. When urban planners document the great planning mistakes of Sydney, this deal, an attempt by the State Government to override the views of two local councils and thousands of local residents, will be seen for what it is - a shabby and shonky deal more akin to the infamous National Party north coast land deals than any attempt at rational and proper urban planning.

Page 6138

During the life of the Helensburgh land zoning scandal the Department of Planning released two important

documents. The first was the "Metropolitan Strategy for the Sydney Region Update", more commonly known as "Sydney Into its Third Century", and the second was the more recent discussion paper on planning the great metropolitan region entitled "Sydney's Future". It is important to realise that both documents form the blueprint for Sydney's population growth and the location of its people. In neither document do we find Helensburgh land listed as being suitable for urban development. Neither document states that Helensburgh land is suitable for housing. The documents do not identify any option for the land other than the need to conserve this valuable area to protect the Royal National Park, the Hacking River and important stands of flora and fauna habitat.

In recognition of the historic planning framework for this area Wollongong City Council and Sutherland Shire Council have endorsed the conservation principles and called on the Minister for Planning, and Minister for Housing to agree on the establishment of an environmental protection zone. Their decision was not made lightly; it came after a great deal of public consultation as well as technical and community input. What did the Minister for Planning, backed up by his little mate the Minister for the Environment, do? Instead of supporting his own department's studies, his own metropolitan strategy for Sydney - which involved years of analysis and research - he put on his white shoes and his dark sunglasses and did what only a National Party Minister would do: he backed the developers.

The Minister's announcement of a commission of inquiry into the zoning of land at Helensburgh is little more than a lifeline thrown to developers to let them stay in the game. The Minister knows that the commission of inquiry is a waste of taxpayer's money and a waste of time. No doubt the Minister for Planning has decided to adopt the old axiom, "In for a penny, in for a pound". After all, what does the Minister have to lose? It is well known that the major developer, the Walker Corporation, made a $30,000 donation to the Government during the 1991 State election campaign. So what is a few more thousand dollars between friends, particularly when it is taxpayers' money? Why not have a commission of inquiry? Why should members of the Government not look after their mates? Members of the Opposition and Sutherland and Wollongong councils do not want the north coast of New South Wales visited on this part of metropolitan Sydney.

Despite the Helensburgh land being in the city of Wollongong, it is more commonly regarded as being part of Sydney's urban fringe. In that context, a decision to make the Helensburgh land available for residential development must be considered as part of Sydney's urban planning strategies. It is fair to say that Sutherland Shire Council, the boundaries of which abut the land, is already doing its fair share in accommodating Sydney's population growth. At present the shire has a population of approximately 195,000, which is expected to grow to 220,000 by the year 2002. The Sutherland shire housing strategy produced in May makes it clear that an additional 25,000 people can be sensibly and logically accommodated within existing urban areas and identified release areas without the need to rezone any of the land at Helensburgh.

When increased housing opportunities in and around commercial centres and railway stations within the Sutherland shire are added to that proposal it becomes clear that the additional burden of broad acre rezoning at Helensburgh is unnecessary and will inevitably overtax the infrastructure and services of the entire region. Good government and planning for Sydney should not be about selling out to the highest bidder. The commission of inquiry into the land at Helensburgh should stop now. The land should be rezoned for environmental protection. That is the view of more than 7,000 Sutherland shire residents who have signed letters of protest about the issue. Sadly, the Minister for Planning, the Premier and the Minister for the Environment are now snubbing the local community. The Premier is even refusing to meet Sutherland Shire Council and its president, Councillor Genevieve Rankin, to talk about the problem. He is trying to buy time for members of Parliament such as the Minister for Sport, Recreation and Racing and the honourable member for Cronulla - [*Time expired*.]

Mr McMANUS (Bulli) [4.01], in reply: I wish to speak to some of the comments made by the Minister for the Environment and the scurrilous allegations he made regarding my involvement in this issue. It is interesting that the Minister had to go back to 1982 to find articles from a local newspaper that indicated my support for Helensburgh development. I have never said that I am anti-development in Helensburgh. In fact, in 1986, when I first ran for government, I said that I had every intention to support development in

Helensburgh within the confines of the town. I screamed and shouted in this House to former Minister for Housing Schipp that there was a need for the Landcom development around Cemetery Road, Helensburgh. That development proceeded, and I am quite please with it. But the Government botched the whole thing.

The Government and the developers in Helensburgh had the opportunity to prove that a drainage system could work. The system has not worked. The development has gone ahead and the Government has botched it. If the Government cannot control a development the size of that Landcom development, which comprises 70 or 80 blocks in the centre of Helensburgh - where sewerage facilities are available - how can the community expect it to control a sizeable development outside those zones and abutting the Royal National Park? The situation is ridiculous. The Government is trying to get out from under by claiming that it was all my fault back in 1982.

I am on the record as having continually argued with Rex Jackson, a former member of this House, about his deliberations to try to get water from the Cataract Dam to Helensburgh. I was always suspicious of the intention to put in heavy
Page 6139
development in the Helensburgh region. It is not true to say that I supported Mr Jackson on development at any stage. Helensburgh has been split asunder. Residents who have been friends for most of their lives no longer talk to each other. It is the Government's inaction over almost 10 years that has created that situation. It is time that my colleagues in the suburbs north of Helensburgh - the Minister for Health, who is the member for Miranda; the honourable member for Cronulla; and the Minister for Sport, Recreation and Racing, who is the member for Sutherland - started to take some interest. If they do not show an interest in the issue, and if the development is approved on the recommendation of Mr Carlton, two things will happen.

I certainly will not be remembered as the member of Parliament who destroyed the Royal National Park. Honourable members must realise a possible outcome of this development. If the development is approved in any way, that will be on the heads of the Minister for the Environment; the honourable member for Cronulla, who is in the Chamber; the Minister for Sport, Recreation and Racing; and the Minister for Health. They have made no move to support the environment movement, the Labor Party in the protection of the national park, the townships of Heathcote and Bundeena and all those who live in communities that will be deleteriously affected by the development. It is time for those Ministers and the honourable member for Cronulla to stand up and be counted. There is an election just around the corner, and they have the opportunity to do something.

The Sutherland Shire Council has adopted an apolitical position. Not one Independent, Labor Party or Liberal Party councillor on that council has at any time disagreed with the stand of the Labor Party on this issue. I have taken the same stand as one of the areas local members. I am prepared to work with my three colleagues in convincing the Premier that the development must not go ahead. This is a complete farce. The Wollongong City Council made its determination two years ago. It was overturned, however, by a ridiculous Minister in another place. When all is said and done, Wollongong City Council is to rehash the same issue and will again come up with the same proposals. It is time the rezoning was carried out. The Government should bite the bullet in regard to this matter.

Motion agreed to.

BUSINESS OF THE HOUSE

Bills: Suspension of Standing and Sessional Orders

Ms Allan: I seek the leave of the House to move that standing and sessional orders be suspended so as to permit resumption of the adjourned debate on the Landfill Depots (Moratorium) Bill, Order of the Day No. 15, forthwith.

Leave not granted.

CHILDREN (PARENTAL RESPONSIBILITY) BILL

SUMMARY OFFENCES AND OTHER LEGISLATION (GRAFFITI) AMENDMENT BILL

Second Reading

Debate resumed from 30 November.

Mr GIBSON (Londonderry) [4.08]: As members from both sides of the House have said, something had to be done about this issue. If a young person of five, six or seven years of age gets into trouble it is difficult for the police to arrest him or her. Somewhere along the line parents must take the responsibility of looking after their children. I have no trouble with that suggestion, but I do have trouble with the question of who decides what happens in such cases. Everyone has a right to expect to live in peace and harmony. My electorate has experienced gangs of young children roaming around, without parental control, terrorising older folk. People who do not know what is going on out there would be as horrified as I am if they were made aware of the real situation.

The most spectacular block of units to have been built in the western suburbs of Sydney has recently been opened at Lethbridge Park. People living on the north shore, or any part of the State for that matter, would be proud to have them in their area. Those of us living in western Sydney are certainly proud of them. The Department of Housing in western Sydney decided to accommodate aged pensioners and invalid pensioners in those units. One can imagine the tremendous joy of the those who moved into those units some four or five weeks ago. They are people who have never had too much in life, but now all of a sudden they are moved into brand new homes. Unfortunately, however, those people have been subjected to attack after attack since moving in to their new homes.

After hearing of their concerns from the people who lived there, I went to the area one night to see what they were talking about. I was amazed to find gangs of people attacking these older folk and invalid pensioners in this part of western Sydney. These residents were worried because fences around the units were pulled down, windows were broken, pot plants were thrown through windows of the units and things were stolen from their surrounds. They had no comeback. When they rang the police, on many occasions police could not attend because they were busy and had to work on a priority basis.

When I visited the area I found that the average age of the young people who were attacking these older people was between five and seven years. I grabbed some of them and tried to talk to them in an attempt to find out what motivated them. I am sure they are not bad children; they seemed to be doing it out of boredom, and that worried me more than anything. If they did it to hurt people or in the course of a criminal act, that would be one problem; but the problem is greater when they do it out of sheer

boredom. After talking to the police I realise there is no solution to the problem. If police pick up a child of three to six years of age they cannot charge the child with anything. Police are looking for a solution, and the bill provides it because it makes the parents responsible for their children in many cases. I do not see this as bad legislation; I support it, particularly with the amendments that will be moved. I am certain that these children will turn out better because of it.

Debate adjourned on motion by Mr Hartcher.

CRIMES (HOME INVASION) AMENDMENT BILL

Second Reading

Debate resumed from 23 November.

Ms MEAGHER (Cabramatta) [4.12]: The circumstances in which I came to be a member of this House are set against a background of great human tragedy. Together with all my Labor colleagues, I was saddened and horrified by the murder of John Newman. John's courage and commitment were unquestioned. His unrelenting advocacy for a better deal for the people of Cabramatta earned him the respect of every person in the electorate. I was proud to be chosen by the Labor Party to succeed John Newman in the State seat of Cabramatta, and I was deeply honoured by the faith the people of Cabramatta placed in me and the party I represent at the by-election on 22 October.

The level of support given to me as John Newman's successor shows two things. First, it shows that John's campaign had the support of the people of Cabramatta; and, second, it shows that a Labor victory means John Newman's campaign will not be silenced. To all John's friends, family and supporters I would like to say this: I will continue his fight to make Cabramatta a better and safer place. I would like to again extend my deepest sympathy to John's family, Mr and Mrs Naumenko, and to Ms Lucy Wang who, despite her hardship and grief, gave me both her personal support and public endorsement.

There is one issue that I feel must be addressed in relation to the circumstances that surrounded the Cabramatta by-election. It is an issue which I find saddening and disturbing as, I know, do the members of the Cabramatta community. Within hours of the shooting the media had put the people of Cabramatta on trial. Without a suspect or even a motive the ethnic community of Cabramatta was placed under scrutiny. The greatest level of vilification was directed at people from Asia. The hype and tabloid headlines that followed the tragic incident demonstrate the bigotry and racism that is still prevalent in our society today. Racism, at its most pervasive, is insidious and subtle. It is often prefaced with terms like, "I don't mean to be racist but . . .", a term I often heard used by commentators and while campaigning.

Each day's reporting of the Newman murder was accompanied by adjoining articles with headlines like, "A Suburb Apart" and, "The Killing of Cabramatta". A lot of media organisations believed that publishing the statistics of Cabramatta's ethnic composition was somehow relevant to a homicide investigation. Personally, I disagree. It is an unprecedented event in Australian history for the reputation of a whole community to be attacked so irresponsibly. The people of Cabramatta are aware that they have endured undeserved criticism and faintly-guarded racism. It was not only shameful and irresponsible, it was un-Australian.

In these statements lie my first challenge as a new member. I am dedicated to rebuilding Cabramatta's name as a vibrant and dynamic place, and restoring the reputation of the people of Cabramatta as honest and hard working. It is my aim to work with the various communities to restore the harmony which is so fundamental to multicultural success. As their voice in Parliament, I will let no-one forget that it was the culture of criminals, not the culture of Cabramatta, that killed John Newman.

At this point I seek the indulgence of the House to express my gratitude to the many men and women who took part in the campaign and have assisted me. The overwhelming endorsement of the Labor Party in the Cabramatta by-election belongs to all members of our party. But no party can effectively communicate its ideas and reflect the aspirations of the electorate without strong leadership. In Cabramatta, as in Parramatta and The Entrance, this leadership was provided by our parliamentary leader, Mr Bob Carr. Without Bob's untiring personal support and his commitment to the people of western Sydney, the 22 per cent swing and an 83 per cent two-party preferred vote could not have been achieved. Bob Carr and his policies were the focus of the campaign, so the result is as much an endorsement of Bob Carr as a leader as it is of Labor's solution to the problems of western Sydney.

I would like to thank the members of the Parliamentary Labor Party - in particular Morris Iemma - who, despite commitments in their own areas, gave their time to ensure a Labor victory. I also extend my warm thanks and gratitude to Bob Carr's staff, who excelled beyond the call of duty. I owe a special thanks to my contemporary and friend, Matthew Shaw. During the last few years we have proved a formidable team and carved a lasting friendship. The result in Cabramatta has shown that the New South Wales Labor Party is an unrivalled campaign machine. The skills and instincts of the ALP officials delivered an unprecedented victory.

Without the support of John Della Bosca, Jarka Sipka, Amanda Fazio, John Gilmore and Lawrie Daly success would not have been possible. I reserve a special thank you for my friend Eric Roozendaal, the New South Wales State Organiser. Eric, without doubt, is the best electoral campaigner in the country. One of the most encouraging aspects of the campaign was the support members of the local ALP showed to

me. They welcomed me and assisted me throughout the by-election and in my first week as their local member. It was a test of courage to support a young woman who many outside the party doubted. It was always going to be a tough battle, but together we overcame the prejudices and obstacles that stood in the way of a Labor victory.

In particular I would like to mention councillors Nick Lalich, Ken Chapman and Phong Ngo, together with the members of the State Electorate Council. I would also like to thank Pat Serge, Michael Danieli, Anthony Cavallaro, Sam Romeo and Nick Scali. To my campaign team - Mario Falchoni, Bob Rowlinson, Kelly Murphy, Lan Lee, Denis Ryan and Nick Street - I place on record my gratitude and appreciation. Often described as the toughest political school in the country, New South Wales Young Labor equipped me well for the difficulties of the by-election and a parliamentary career. It is a reflection of both the professionalism of New South Wales Young Labor and the maturity of the senior party that they were prepared to endorse a Young Labor president for an electorate in difficult circumstances. My Young Labor colleagues gave up their time freely to become the arms and legs of the campaign, and I thank them for their untiring efforts and friendship.

Mr Speaker, like many on this side of the House I am proud to stand before you as a parliamentary representative of the broader Labor movement, a representative of working Australians. I enjoyed the invaluable support of the New South Wales Labor Council, the Australian Services Union, the Public Service Association, the CWU, the AWU-FIMEE, the Electrical Trades Union and the Nurses' Federation. However, my deepest gratitude is reserved for the Transport Workers Union. As a young woman in a traditionally blue-collar, male-dominated and militant union, there were many challenges and preconceptions to overcome. But with the support of my TWU colleagues - in particular Steve Hutchins, Tony Sheldon, Craig Shannon and Doona - my involvement was encouraged and supported.

As one of the few members of this House who has worked under the current Industrial Relations Act, I see a Labor victory in March as an opportunity to repeal that failed instrument and introduce changes which will guarantee a greater degree of equity in industrial relations in this State. In other words, Labor will deliver a better deal for working men and women in this State. My final thanks go to my parents and Joe Tripodi. Joe is a constant source of encouragement and support. Together we achieved remarkable gains in Young Labor - perhaps not as remarkable as the Premier has attempted to suggest, but we are a great partnership and the constituents of Fairfield and Cabramatta will experience the benefit of the close working relationship of their two representatives.

I shall now turn my attention to the needs of the people of Cabramatta. No member of this House would argue when I say that the safety of children should be a top priority. Every day in Cabramatta, children on their way to and from Canley Heights Public School are forced to make dangerous crossings of the Cumberland Highway. Three years ago the Fahey Government promised to erect a pedestrian overbridge for school children. As with its promises in Parramatta, it has failed to deliver. If the Premier cannot deliver on the safety of children, what can he deliver on?

There is a need to fast-track the widening of Elizabeth Drive between Cabramatta Road and Cowpasture Road at Bonnyrigg and a need to upgrade the overbridge at Canley Vale railway station to improve traffic conditions in peak periods. A key part of Labor's overall crime prevention strategy is to make public transport safer and more reliable. Under Labor's innovative railsafe policy, Cabramatta will be declared a safety station, its security upgraded, and staffing provided 24 hours a day. Police will patrol the railway stations for gang activity and, when conflict is a possibility, police will disperse gangs.

Labor will provide safe, well-lit areas at rail and bus terminals where passengers will be able to call friends

and wait for lifts. I have already received calls from distressed parents about schoolgirls who have been harassed by intimidating groups of youths at Cabramatta station while they waited for a connecting bus. All these roadworks and public transport improvements have one focus: to improve public safety. If there is one issue that the Fahey Government deserves to be condemned for - and there are many - it is the issue of health services. After seven years of Fahey Government neglect, no detoxification unit exists in the entire south-west region of Sydney.

The reason for this is simple. For more than two years the Fahey Government has refused to establish a unit, despite strong support by local police and drug and alcohol workers. People with serious drug and alcohol problems who live in Cabramatta and Fairfield are being denied essential rehabilitation services. If many of these people do not get treatment, they are likely to resort to crime to support their habits. Unlike the Premier, the Leader of the Opposition and Labor care about people, and we have given a commitment to establish a 10-bed facility at Fairfield hospital in our first term.

After seven years of this tired Government, we have 300 people on the waiting list for surgery at Fairfield hospital, and about 1,500 in the queue at Liverpool. The South Western Sydney Area Health Service accommodates about 10 per cent of the State's population, and year after year it fails to receive an adequate share of funding. Labor's policy will see the abandoning of productivity cuts in Sydney's greater west and the full health budget being spent on health services. The role of GPs will be expanded in casualty units to handle non-emergency cases, and new ambulance officers will be recruited. [*Extension of time agreed to.*]

Cabramatta, like all areas, has a criminal element. The crime problem in Cabramatta should be a clear signal to this Government that its policies are

not working. What is needed is a comprehensive approach to crime prevention which focuses on preventing crime, restoring the rights of victims and giving fair punishments to perpetrators. Under Labor, that is what the people of New South Wales will get. Labor's practical solutions are in stark contrast to the neglect and knee-jerk reactions of the Government. I campaigned on the issue of home invasions, advocating a new offence of aggravated burglary for violent home invasion style crimes. This bill is a vindication of the campaign by the Leader of the Opposition and me. The most alarming failure of this bill and the Fahey Government's approach is that no attempt has been made to support the victims of home invasions.

Ricki Bartell of the Cabramatta community centre recently raised with me the possibility of introducing and the need to introduce counselling for the victims of home invasions. The nature of the home invasion crime is such that criminals prey on people who are intimidated into remaining silent. Without counselling, individual victims are unable to overcome their grief and report the crime to police; and if the crime is not reported, police are unable effectively to target and assist. If we can give the victims of these crimes the security to feel that they will be supported, without repercussions, the rate of arrests will improve, as will the healing process.

Labor's approach - in contrast to this Government's approach - is all about breaking the cycle of crime and giving young people opportunities. While Labor's policy will be tough on criminals, it is balanced with a progressive approach to preventing criminal activity. At present in Cabramatta we see a cycle of youth despair. The current Government has failed young people by denying them health, recreational and educational opportunities. Without these opportunities, many young people slide hopelessly and, in some cases, irretrievably towards a life of drugs and crime. That is why we need funding for the Police Citizens Youth Club which is at present in a shocking state of disrepair.

This facility in Cabramatta is falling down. The roof leaks; the doorways are unsafe; the gym equipment is hazardous; and there are no recreational facilities. These sorts of standards would not be tolerated in a workplace, so if we are serious about opportunities for young people, we should put our money where our mouth is. While I support this bill, I see its limitations. There is more that can be done, and I look forward to pursuing these issues as part of a Labor government.

Let me conclude by saying that, as the youngest member of Parliament, I feel privileged to be part of this great democratic institution. I am aware of the responsibility that being a member of this House entails, and I am respectful of its history. But I will not be bound by tradition or protocol if it stands in the way of a better deal for the people of Cabramatta and New South Wales. My first priority - and my deepest commitment - will remain to the Labor movement and the people whom I represent.

Debate adjourned on motion by Mr West.

BUSINESS OF THE HOUSE

Days and Hours of Sitting: Consideration of Urgent Motion

Mr Speaker reported a communication from His Excellency the Governor acknowledging receipt of the resolution adopted by the Legislative Assembly on 24 November 1994.

FORESTRY ACT: REVOCATION OF DEDICATIONS

Mr Speaker reported a communication from His Excellency the Governor acknowledging receipt of the resolution adopted by the Legislative Assembly on 29 November 1994, regarding the revocation of the dedication of parts of certain State forests.

CHILDREN (PARENTAL RESPONSIBILITY) BILL

SUMMARY OFFENCES AND OTHER LEGISLATION (GRAFFITI) AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [4.28], in reply: I acknowledge that there is broad support from the Labor Opposition for the legislation before the House. I shall make it abundantly clear that a number of concerns that have been expressed about the legislation are unfounded. I can assure the House that there is no intention to do anything other than focus responsibility back on families and ensure that a comprehensive approach is taken, not to a perceived problem but a real problem.

Much that has been written in letters to members of Parliament and in some newspaper articles seems to run off at a tangent and create unnecessary concern. The Government does not intend to bring into Parliament the concerns expressed as to some of the ramifications of the bill. I shall endeavour to deal with those matters briefly, because I am conscious of the number of bills to be debated, and their urgency, and I do not want to detain honourable members any longer than is necessary. Magistrates in our children's courts need powers that they do not have at present. In 1984 the then honourable member for Burwood and I were involved in a debate on the Child Welfare Act. Research at that time gave me some insight, as it did the honourable member for Burwood, as to efforts made by children's courts magistrates, who did not have sufficient powers and control to deal with the problems, which have compounded in ensuing years. The bill addresses those concerns.

A magistrate in a children's court has the capacity to have a person from the Department of Community Services brought to the court to give a report about a ward of the State. The magistrate relies upon, and in many instances receives, the cooperation of a parent or parents. Many parents

accept the responsibility and believe it is essential to accompany a child who is before the court, but other parents are absent and the magistrate has no power to make them attend. Unless we can ensure that a process is in place to lock in parent and child when there is a prospect that the child will face a criminal offence, we will

never get to the crux of the problem and address it holistically, which is what the Government wants. Magistrates have needed such a power for some time. I should like to quote from what Mr Blackmore, the long-serving and highly regarded Senior Children's Court Magistrate, said on this bill:

> The parental responsibility bill fills a much needed void in relation to the Children's Court's powers with regard to young offenders. At present the court has no direct power to involve parents either in the court proceedings or efforts to rehabilitate the child.

It is not the wish of the Government to transfer the blame and the penalty to parents. It is the wish of the Government to ensure that parents lock themselves into some future process, whether it be counselling or some other program, that will benefit the child and ensure that the parent or parents take responsibility and involve themselves with the child in a particular program. However, the most contentious issue seems to be the power of the police. Time and again over the years police officers in my electorate and in other parts of the State have told me that they have no power to deal with the problem. They cannot tell young people to move on, because the young people soon tell them what their rights are.

I received a letter from the President of the Council for Civil Liberties who extolled the virtue of liberties. I do not believe that we have a responsibility to give civil liberties to 12 year olds at midnight. The responsibility we have as a Parliament is to ensure that 12 year olds are not on the street at midnight, and that parents accept responsibility. It has been suggested that depriving such children of liberties is tantamount to an arrest or tantamount to a false detention. That was never the intention. Implementation of the legislation will ensure that that never occurs.

We will not allow the legislation to progress until we have identified government agencies such as the Department of Community Services, and non-government agencies such as the Sydney City Mission and the St Vincent de Paul Society, that provide proper places in which young people will be looked after. It is essential that police officers exercise powers that are not powers of arrest in any shape or form. The first line is the police. Representatives of the Police Association told the Government that it is not the job of police officers to be responsible for young people; it ought to be the responsibility of officers of the Department of Community Services. But it is police officers who see the problem and we are seeking to ensure that they have the capacity, as would any other parent who was present, to offer a young person a lift home before he or she gets into some trouble.

The implementation of that aspect of the legislation will be carefully monitored until we have identified safe houses in cooperation with the department and have advance knowledge that someone will be present to provide care and proper accommodation. No area, no town, no suburb will be part of the implementation program until those criteria have been met. It is not an arbitrary exercise of police power; it is a case of ensuring that the guidelines are in place to strictly determine the manner in which the procedure occurs.

I now turn to the concern expressed about returning children to abusive families. I assure the House that that is neither the wish nor the intention of the Government. It will certainly not flow from the practical aspects of the legislation when it is enacted. It is in the interest of the child to make a statement and it is in the interest of the police to ensure that the statement is taken seriously. If there is any concern about returning a child to the family, that is when the safe house will come into effect. It will not be a case of returning the child to the place of abuse the child is trying to avoid by being out on the street at the time the police exercise their powers. This is a most progressive step. People have a right to feel safe in their homes, on the streets and in their neighbourhood.

Recently I was in the electorate of the Chief Secretary, and Minister for Administrative Services and visited the area of St Clair. I saw the result of the lack of police powers. I saw barbed wire on the roofs of shopping centres to prevent young people from climbing up. I saw a fence adjacent to the shopping centre that had been burned at 3 a.m. I saw graffiti on every single wall and building. Such things destroy pride in a neighbourhood. They leave the community which is doing its very best to develop a neighbourhood with law-abiding citizens with the impression that there is no point in having that pride because the police have no control on the streets.

I spoke to the manager of the Quix Food Store and service station who told me that children as young as 11 are dropped off at the service station at 8 o'clock on a Saturday night by parents who are off to the club. They tell the children they will be back to pick them up at 1 o'clock the next morning. The children are running rampant. That is not exercising parental responsibility; it is abdicating responsibility and expecting some other form of support to take over. We have to return to the basic principles of life that made this State great, that is, to focus on the family and the responsibility that parents must exercise.

The type of graffiti I saw at St Clair should be highlighted. The bill emphasises the need for us to treat the act of malicious damage - and that is what graffiti is - separately, to give a clear message that the community is sick and tired of the mess graffiti is creating. It disturbs me a little to think that the penalties in the legislation for malicious damage will be watered down by amendments by the Australian Labor Party. I do not know why we need to go backwards. Magistrates will determine, as and when necessary, the appropriate penalty.

Page 6144

As parliamentarians it is our duty and our responsibility to stress that we are sick and tired of such behaviour. We need to provide an appropriate guideline so that those in the justice system who will adjudicate on these matters are aware that the views of the community, which we must always express, are mirrored in the legislation. I stress that the bill is about returning the focus for responsibility to parents, ensuring that parents play their part with the necessary backup at the implementation stage, otherwise there will be no implementation in any area.

I am sure that all honourable members will appreciate that the police have been saying to me, to my colleagues and to many others that they have needed such provisions for a long time. The bill does not provide for arrest or detention. It will simply ensure that proper care is available. The ability to return young people to families or, in the absence of a family, a safe house will flow from the legislation and it will benefit all communities.

The Opposition seeks to propose a number of amendments. The great bulk of those amendments are the subject of intentions that I have expressed publicly, and I have indicated there is no need for many of them. However, I will deal with them at this stage, in the interests of ensuring that this measure proceeds and becomes a most acceptable law for this State. I propose to comment on each amendment briefly. I have been inundated with letters from the community since this legislation was first proposed. I have listened to cheap shots by members opposite about problems in their neighbourhoods and to suggestions that the legislation has been hastily prepared. Those suggestions are wrong.

The proposed legislation has been the subject of considerable research on the part of the Government, flowing from and ancillary to the white paper on juvenile justice. This issue has been reviewed in legislation in other States, the effects of which have been examined over a considerable period. The bills are a proper response to real community concerns that are evident, for example, in shopping centres like the one I visited at St Clair. Government members have responded to those concerns. They have faced the problem and have spoken up about it. The proposed legislation is an adequate response to allay many of those community concerns in a most sensible way.

Dr Macdonald: I propose, pursuant to Standing Orders 179 and 248A(3), that the questions be put seriatim.

Mr SPEAKER: Order! The honourable member for Manly having requested under Standing Order 248A(3) and Standing Order 179 that the questions for second reading be put seriatim, the question is, That the Children (Parental Responsibility) Bill be now read a second time.

Question put.

Motion agreed to.

Bill read a second time.

Mr SPEAKER: Order! The question now is, That the Summary Offences and Other Legislation (Graffiti) Amendment Bill be now read a second time.

Question put.

Motion agreed to.

Bill read a second time.

In Committee

The TEMPORARY CHAIRMAN (Mr Hazzard): Order! With the consent of the Committee I shall propose the Children (Parental Responsibility) Bill first.

Clause 12

Mr AMERY (Mount Druitt) [4.47]: I move:

No. 1 Page 6, clause 12, line 24. After "place", insert "of refuge".

The Opposition's first proposed amendment defines the place set out in the bill as a place of refuge. This amendment is similar to other amendments to be moved to clause 13. The Premier said in his reply at the conclusion of the second reading debate that he had been in contact with certain organisations and that persons affected by these provisions could be taken to various safe houses or other places. The safe houses or other places referred to by the Premier are not defined in the bill. Clause 12, with the inclusion of the words "of refuge" following amendment, will provide that children who are taken off the streets will be taken not to a place of custody or imprisonment such as a police station but to a refuge, however that is determined, and certainly to a place of safe keeping or, in the terms of the Premier, a safe house.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [4.48]: I am not sure that the words "of refuge" further define the existing provision. I state again that the intention is to have a place which is regarded as a refuge, which may well be described as a children's refuge in that it is run by the Department of Community Services or by a non-government organisation, but a place that, in advance and by arrangement, is seen as a place which, for the particular police district or town, is addressed by the bill and to which a young person may be taken. The bill further states that no young person is to be detained in custody with any other offender. It has never been intended that the bill should apply to police stations, beings places of detention. The intention is simply to remove young children from where they are exposed to some form of danger, and to take them to where proper care is available. The intention expressed by the honourable member has always been the intention of the Government in this matter, that is, to have available a house, a safe place similar to those operated by the Department of Community Services or non-government organisations such as the Sydney City Mission. That is the intention of the Government. The Government does not object to the amendment.

Amendment agreed to.

Mr AMERY (Mount Druitt) [4.49]: I move:

No. 2 Page 6, clause 12. After line 25, insert:

(3) A police station cannot be a prescribed place of refuge.

In support of the amendment, the Premier said just that. However, the Premier, during his contribution to the second reading debate and in response to the previous amendment, spoke about the intention or the wish of the Government. The Government's intention or wish may be well founded, and no-one denies what the Premier said. However, the bill does not make a specific statement in this regard. The Opposition is convinced by the letter from the Council for Civil Liberties. That letter stated that, unless the bill specifically states otherwise, a police officer could remove a young person under the age of 15 years to a police station and, if an operational problem arises at that station, that young person could be kept at the station with persons who have been charged and are on remand. The amendment clearly states that, wherever such children are taken when they are taken off the streets, they will not be taken to a police station.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [4.49]: The Government has no objection. Clause 13(7) already provides that young persons are not to be placed with convicted offenders or persons on remand. I assure the honourable member that clear directions will be given to police officers, when those places of refuge are found, that young persons being kept at police stations is the furthest thing from consideration. It would never have been a practical result from the bill. I support the notion that police cells should not be used as prescribed places of care. The Government agrees to the amendment in order to make it abundantly clear.

Dr MACDONALD (Manly) [4.50]: The Premier has indicated he is happy to take on board contributions towards the definition of prescribed place. It is essential that he takes on board contributions of honourable members. This legislation was developed in haste and without proper consideration. Since the Usher report there has been a significant reduction in the number of placements in juvenile institutions and detention centres. At the same time, a limited number of places can be described as prescribed places. Those who drafted this piece of legislation knew and anticipated that it was very likely some young persons would be taken to gaol because clause 13(7) states:

Such a person must be kept separately from any persons who are detained for committing offences . . .

Where are people normally detained for committing offences? The bill acknowledges that it is quite likely the prescribed place could be a police station. Of course, the bill covers that event by the provision of clause 13(7). It is a real concern placing in police stations young children who have committed an offence or who are at risk in the view of police officers. Recent history demonstrates those risks exist. The Farquharson case in Manly was about a youngster dying in the custody of police in enormously sad circumstances that have now been examined by the Coroner. The outcome of that case is that custodial officers are now on duty at police stations where these results could happen. Unless it is specified clearly in the bill that prescribed places could include police stations, it is proper that the Opposition has brought it to the attention of the House and has spelled it out clearly in the amendment.

Amendment agreed to.

Mr AMERY (Mount Druitt) [4.53]: I move:

No. 3 Page 7, clause 12. After line 2, insert:

(6) Section 22 (Notification of child abuse) of the Children (Care and Protection) Act 1987 applies to a police officer while exercising functions under this Part as if the police officer were the holder of an office prescribed for the purposes of that section.

Contributions to the debate referred to concern expressed by a number of organisations that one problem in taking people off the street and removing them to their homes is that they could be returned to a trouble spot from which they were trying to escape in the first place. Under the Children (Care and Protection) Act professionals such as doctors and teachers are official notifiers of child abuse cases. One of the anomalies in

that Act is that as far as this bill is concerned police officers are not official notifiers. The Opposition wants written into the legislation that a police officer is an official notifier. Obviously, a police officer taking a person home who might find evidence of some abuse would take appropriate action. The Opposition wants the safeguard provision included in this piece of legislation.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [4.54]: The Government does not oppose this amendment. It is clear from my comments that there will be a cooperative approach between officers of the Department of Community Services and police officers to determine where that safe place or refuge may be. That cooperative arrangement will be established in advance. It will require ongoing discussions between the police officer and the officer of the Department of Community Services or the person in charge of the non-government organisation. Though it is not included in legislation, it would be entirely appropriate for a police officer to notify his or her concerns about a particular home situation and to ensure a follow-up by the officer of the Department of Community Services. If there is evidence of abuse in the home, it is my view that notification by the police officer would be implemented, but the Government has no objection to this provision being enshrined in the bill.

Amendment agreed to.

Clause as amended agreed to.

Page 6146

Clause 13

Mr AMERY (Mount Druitt) [4.56]: I move:

No. 4 Page 7, clause 13, lines 3-24. After "prescribed place" or "prescribed places" wherever occurring, insert "of refuge".

This is almost in the same situation as amendment No. 1. The Opposition wants the places defined as places of refuge.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [4.56]: For reasons already stated, the Government does not oppose the amendment.

Amendment agreed to.

Clause as amended agreed to.

Clause 16

Mr AMERY (Mount Druitt) [4.57], by leave: I move the following amendments in globo:

No. 5 Page 8, clause 16, line 13. Omit "5 years", insert instead "1 year".

No. 6 Page 8, clause 16, line 15. Omit "5 years", insert instead "1 year referred to in subsection (2)".

These amendments refer to how long this type of legislation should be in place and operational before it is reviewed. Obviously with so much community concern the Opposition believes that the legislation should signal to the community that it will not operate for five years but, rather, after one year its operation should be reviewed. Line 13 in the bill states:

> The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.

Many pieces of legislation provide for reviews of one and two years. The Opposition considers that with

controversial legislation five years is too long before any review is undertaken. It is more appropriate to be safe with a provision for one-year reviews.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [5.00]: The Government will not oppose these amendments. The legislation aims to fortify the capacity of families to deal with young offenders. It will ensure a cooperative approach by people in the Children's Court and an ongoing counselling program. It is not the intention of the Government to wait five years before reviewing this legislation. I will monitor the implementation of this legislation and will not wait even 12 months before I determine how it is working. The Government has no objection to a review being undertaken after 12 months.

Amendments agreed to.

Clause as amended agreed to.

The TEMPORARY CHAIRMAN (Mr Hazzard): Order! The Committee will deal now with the Summary Offences and Other Legislation (Graffiti) Amendment Bill.

Schedule 1

Mr AMERY (Mount Druitt) [5.01]: I move:

No. 1 Page 3, Schedule 1, line 12. Omit "12 months", insert instead "6 months".

Earlier the Premier made reference to this provision in the legislation. I do not want to get into a bidding war with the Government. Proposed section 10A relates to damaging and defacing property by means of spray paint. The bill does not refer to malicious damage such as the physical destruction of a house, setting fire to a house or breaking into a shop. The section states:

> A person must not, without reasonable excuse (proof of which lies on the person), wilfully damage or deface any premises or other property by means of spray paint.

The offence relates specifically to damaging property by spraying paint, or committing an act of vandalism by spraying paint. The maximum penalty for such an offence is 20 penalty units or imprisonment for 12 months. It is unlikely that magistrates will sentence people for this type of offence alone. I think it is a bit over the top to provide for a maximum penalty of 12 months imprisonment for offences such as this. We are asking for a maximum penalty of six months imprisonment. It is to be hoped that a sentence of this nature will be imposed only in the most severe cases. I think a maximum penalty of 20 penalty units or imprisonment for six months is sufficient.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [5.03]: The Government cannot accept this amendment. I understand what the honourable member for Mount Druitt is saying. The maximum penalty that can be imposed at present for defacing property is five years imprisonment. Recently a colleague of mine in the Federal Parliament had a sandstone wall in the front of his home defaced. It cost him $8,000 to remove the graffiti from that sandstone wall. That is a small sum in comparison to the cost involved in removing graffiti from other buildings. I remember the honourable member for The Hills saying in debate on this bill that State Rail spent $20 million each year removing graffiti. It is for the court to determine what penalty should be imposed. The courts deal with individual cases and impose relevant penalties.

The Government believes that the provision for a maximum penalty of 12 months imprisonment will be used by the courts as a guide. It is not a mandatory penalty. If the penalty is reduced from 12 months to six months the concerns expressed by members of the community about the cost to remove graffiti will be watered down. I have given a few examples of how much it costs to remove graffiti. It would be wrong to send a message to the judiciary that it is all right to impose a penalty of five years imprisonment when someone has specifically defaced property. The Opposition's amendment seeks to omit the 12-month penalty and replace it

with a six-month

penalty. That is the wrong message to be sending to the judiciary. I ask the honourable member for Mount Druitt to reconsider his amendment.

Mr AMERY (Mount Druitt) [5.05]: The Premier referred to more severe penalties in other Acts. This bill will not repeal the penalties imposed in those Acts; it relates specifically to people causing damage by using spray-paint.

Mr Fahey: The other charge can be laid.

Mr AMERY: That is right, but we are talking about the penalties in this bill. It is unlikely that anyone will go to gaol for such an offence. We believe that a penalty of 12 months imprisonment for spray-painting offences is too severe; it is over the top. Some people have spray-painted billboards as a protest against cigarette and sexist advertising. Opposition members are very concerned - this matter has been discussed in the party room - about the fact that prison sentences can be imposed for these types of offences. A sentence of six months is more than sufficient for the offences that are described in this legislation.

Mr RICHARDSON (The Hills) [5.06]: I wish to repeat some of the comments that I made yesterday in debate on this legislation. Earlier the Premier mentioned that State Rail paid $20 million to remove graffiti, whereas the bill to remove graffiti is $40 million. The total bill for the removal of graffiti in this State is $100 million. Some graffiti gangs have members going out on repeated raids causing hundreds of thousands, if not millions, of dollars worth of damage to property in this State. We are not talking about a member of the Billboards Utilising Graffiti Against Unhealthy Promotions - BUGA UP - defacing a billboard in protest against the message on that billboard and receiving a sentence of one year's imprisonment. The bill provides for community service orders, which is the Government's preferred approach. We expect magistrates to be handing out community service orders for most graffiti offences. But we would like to send a clear message to magistrates and to the community that we view seriously repeat offences. The Opposition's amendment will not send out that message.

Dr MACDONALD (Manly) [5.07]: Is the Premier able to provide the Committee with some evidence that 12 months in gaol for a youngster who has committed a graffiti offence is constructive rehabilitation? The honourable member for The Hills gave it away when he said that the Government's preferred position was community service orders. Of course that is the way to go; that is a constructive way to deal with these people. I have worked amongst some of these gangs in the Manly electorate and have seen the pranks that they get up to. But to put them in gaol for 12 months would be disastrous. That is the wrong message to be sending out. If the Government wants to get tough - we have to get tough on these individuals - we can do it up-front. One way of doing it is by introducing the community service concept. Offenders should be obliged to work with graffiti workers and teams for several months, or they should perform separate community service. That is the message we should be sending. We should not be putting children in gaol for 12 months.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [5.09]: I am sure the colleagues of the honourable member for Manly will not thank him for his contribution. This bill is aimed not only at young people but at all those who maliciously damage property by using spray-paint. The bill, which provides specifically for community service orders, does not deal only with people convicted of a defacing offence by using spray-paint. Those who have to perform community service work might tell their friends that they have had a miserable time for the last 100 hours or so cleaning up The Corso at Manly or whatever else has been knocked around. Expansion of the community service order scheme should spread that message through the community. That is what the bill is about. All honourable members should recognise that the upper range is provided almost as a measure of last resort.

The statute book has legislation that is designed to provide for instances in which there is, at the end of the day, a need to impose a maximum penalty of five years. If it is decided that there is not sufficient penalty under this bill, charges will have to be laid under another Act that carries a five-year penalty. We should not forget

the discretion of the court. All honourable members would recognise that invariably the imposition of a maximum penalty is a measure of last resort for repeat offenders, those with long records and those who have caused damage of monumental proportions. If an action is viewed as being malicious in every sense of the word, the maximum penalty might be imposed. This measure is simply a message to the courts that provision exists if at the end of the day there is a need to impose the maximum penalty. One would expect that all other options would be taken into account in consideration of younger people, as demonstrated on a daily basis by the justice system. The ultimate message is that the Parliament views this type of damage seriously.

Dr MACDONALD (Manly) [5.11]: The Government is back-pedalling on this issue. The Premier has said that the best messages will come from those who serve community service orders. I agree. However, the messages that would come from someone who had served 12 months in gaol would be disastrous. A young person who had to serve a 12-month gaol sentence could easily be turned into a hardened, bitter criminal with a desire for revenge on society and, therefore, reoffend. I support the Government's move in relation to community service orders. The amendment moved by the honourable member for Mount Druitt is good. Equally, the further amendments he seeks to move to strengthen the position of community service orders are good. Though the Government seems to agree with them in debate, it will not support them in a vote.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [5.12]: The logic of the honourable member for Manly has defied me on many occasions, but never more so than now.

Page 6148

Question - That the amendment be agreed to - put.

The Committee divided.

Ayes, 48

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Mr A. S. Aquilina	Mr Mills
Mr J. J. Aquilina	Ms Moore
Mr Bowman	Mr Moss
Mr Clough	Mr J. H. Murray
Mr Crittenden	Mr Nagle
Mr Face	Mr Neilly
Mr Gaudry	Ms Nori
Mr Gibson	Mr E. T. Page
Mrs Grusovin	Mr Price
Mr Harrison	Dr Refshauge
Ms Harrison	Mr Rogan
Mr Hatton	Mr Rumble
Mr Hunter	Mr Scully
Mr Iemma	Mr Shedden
Mr Irwin	Mr Sullivan
Mr Knight	Mr Thompson
Mr Knowles	Mr Whelan
Mr Langton	Mr Yeadon
Mrs Lo Po'	
Mr McBride	*Tellers*,
Dr Macdonald	Mr Beckroge
Mr McManus	Mr Davoren

Noes, 46

Mr Armstrong	Mr W. T. J. Murray
Mr Baird	Mr O'Doherty
Mr Beck	Mr D. L. Page
Mr Blackmore	Mr Peacocke
Mr Chappell	Mr Petch
Mrs Chikarovski	Mr Phillips
Mr Cochran	Mr Photios
Mrs Cohen	Mr Richardson
Mr Collins	Mr Rixon
Mr Cruickshank	Mr Rozzoli
Mr Debnam	Mr Schipp
Mr Downy	Mr Schultz
Mr Fahey	Mrs Skinner
Mr Fraser	Mr Small
Mr Glachan	Mr Smith
Mr Griffiths	Mr Souris
Mr Hartcher	Mr Turner
Mr Humpherson	Mr West
Dr Kernohan	Mr Windsor
Mr Kinross	Mr Zammit
Mr Longley	
Ms Machin	*Tellers*,
Mr Merton	Mr Jeffery
Mr Morris	Mr Kerr

Pairs

Mr Carr	Mr Causley
Mr Doyle	Mr Tink

Question so resolved in the affirmative.

Amendment agreed to.

Mr AMERY (Mount Druitt) [5.19]: I move:

No. 2 Page 3, Schedule 1. After line 12, insert:

(2) Instead of imposing a fine on the person or sentencing the person to imprisonment, the court:

(a) may make an order under section 4 of the Community Service Orders Act 1979 requiring the person to perform community service work, being an order containing a recommendation of the kind referred to in section 4(1A) of that Act; or

(b) may make an order under section 5 of the Children (Community Service Orders) Act 1987 requiring the person to perform community service work, being an order containing a recommendation of the kind referred to in section 5(1A) of that Act,

as the case requires.

(3) A court that convicts a person of an offence under this section must not sentence the person to imprisonment unless the person has previously been convicted of an offence under this section or section 10B on so many occasions that the court is satisfied that the person is a serious and persistent offender and is likely to commit such an offence again.

(4) In addition to any penalty that it may impose for the commission of an offence under this section, a court that convicts a child of such an offence may make an order requiring a parent of the child to pay:

(a) to such person as the court may determine; and

(b) within such time as the court may determine,

such amount as the court may determine by way of compensation for the damage caused by the commission of the offence.

(5) On the filing in a court of competent jurisdiction of the prescribed documents, an order under this section is taken to be a judgment of that court, and may be enforced accordingly.

(6) In this section:

"child" means a person who is under the age of 18 years;

"custody", in relation to a child, means custody of the child to which a person is entitled by law;

"parent" of a child includes:

(a) a guardian of the child; and

(b) a person who has custody of the child,

but does not include the Minister administering the Children (Care and Protection) Act 1987 or the Director-General of the Department of Community Services, or the father or mother of the child if the father or mother has neither guardianship nor custody of the child.

The amendment goes hand in hand with the Opposition's first amendment. It gives a clear indication to the court that 12 months is too harsh a penalty and that six months should be the maximum penalty and the penalty of last resort. Proposed subsection (3) refers to imprisonment only as a last resort. It applies to a habitual offender. When fines have failed to stop the person committing further offences, a prison sentence becomes the only alternative penalty. I would like to hear the views of members of the National Party in regard to proposed subsection (4). They talk about people being soft on offenders. This amendment will give the courts

flexibility. Courts will be understand the gaol sentences are penalties of last resort, but they are given the further option of awarding compensation to victims of crime.

In my contribution to the second reading debate I referred to damage done by people using cans of spray paint to public property and private property - to motor vehicles and fences. The amendment will enable the courts to direct, in circumstances where compensation can be paid, that compensation be paid to the victims of the damage. The Opposition believes that is a positive step. Government supporters have spoken about people being made to pay for their crimes. This amendment provides for the payment of compensation to victims.

The compensation award can be enforced in a court under proposed subsection (5). Proposed subsection (6) relates to definitions that were not included in the bill. The Premier will probably say the definitions appear in other Acts. However, the proposed subsection clarifies the situation. I ask the Government to support the amendment. I know the Premier will say that courts already have flexibility, but the Opposition believes the amendment will give courts a better range of options, and will enable courts to direct that compensation be paid in certain circumstances.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [5.24]: The proposed amendment covers a number of matters. The Government does not oppose the objective of proposed subsection (2). However, it has concerns about the words in proposed subsection (3), "and is likely to commit

such an offence again". Courts must always assess this possibility in the context of considering individual situations, and it would be crazy to enshrine such a provision in legislation. No court in any other area of law is placed in that position. On that basis the Government cannot agree to that proposed subsection.

It gets worse. The suggestion is that the crime of one person should become the crime of someone entirely different. A parent will be ordered to pay, in a monetary sense, for damage done by their child. That requirement will tear families apart. I can visualise a situation in which little Johnny goes home to dad and is boxed around the ears, kicked in the backside and thrown out of the house after dad has said, "Enough is enough. I am not prepared to be put in a position of having to pay for you". I should have thought we should abide by the adage that we are not our brother's keeper. I agree with the need to have parents locked into a situation of guidance and counselling with their children. However, imposing a penalty on a parent through law will have the effect of parents getting rid of their children at the first opportunity. History supports that contention.

When I practised law many parents willingly entered into an arrangement which was acknowledged by a court. Most responsible parents believe they have an obligation to accept responsibility for their children and to pay for any damage they cause, but to impose that responsibility on all parents by law will result in the break up of many families. Economic hardship can cause a family break-up, and that break-up may be to the detriment of other children in the family. I cannot agree with this principle and I oppose it.

Dr MACDONALD (Manly) [5.27]: I had not intended to speak to this amendment. However, it is interesting that clause 9(1) of the Children (Parental Responsibility) Bill provides:

> A parent who, by wilful default or by neglecting to exercise proper care and guardianship of the child, has contributed to the commission of an offence of which the child has been found guilty, is guilty of an offence.

A fine of $1,000 will be imposed on the parents. What is the difference between that provision and the Premier's argument that a person cannot be held responsible for another person's crime? Surely his argument is negated. Under clause 7(1)(a) of the same bill the parents have to give security for the good behaviour of the child until that child attains the age of 18 years. Under clause 7(4) that security can be ordered to be forfeited by the court . I do not see a great deal of difference between the two provisions. I have considered whether this component was consistent with what has been proposed in the cognate bill. Clearly it is consistent. That is one of the reasons I oppose the Children (Parental Responsibility) Bill. It could result in trench warfare between generations by driving a wedge between them. We should not be separating generations but bringing them together. One could argue that when parents end up paying fines for their children, the potential for a family break-up increases. The Premier supports the provision in the Children (Parental Responsibility) Bill, so why does he not support this amendment?

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [5.29]: I refer the honourable member for Manly to the old offence of neglect in the Child Welfare Act. On many occasions I appeared for young children who were charged with neglect. It was stupid, sad situation but that was the fact. At one time I recall appearing before the court carrying twins aged six months who were charged with the old offence of neglect. The offence related to the care and responsibility of parents, but the children were the ones who were charged. The Children (Parental Responsibility) Bill provides a penalty in cases when parents have contributed, by neglect, to a crime being committed, but clearly not by six-month-old twins, as happened under the old Act to which I referred.

I shall give some examples of when parents could be held responsible for the actions of their children. It might occur when children have been given drugs or alcohol by parents and an offence is committed, or when parents have given their car keys to their 12-year-old child and a crime results. If

children have been given spray cans and encouraged to commit a graffiti offence, and there is evidence to that effect, that might be covered by the Summary Offences and Other Legislation (Graffiti) Amendment Bill. In this case, however, we are talking about a fine being imposed on parents for damage caused by their child when

the parent played no part in the offence. That is the distinction: the parent did not contribute to the crime involving damage caused by graffiti. We have given a clear indication that when an offence is committed - whether or not it involved graffiti, but it is more than likely to be graffiti - the courts may decide that, as a last resort, the parents are liable.

Mr ANDERSON (Liverpool) [5.32]: I did not intend to speak in this debate. However, I want to correct something said by my learned friend the Premier. Part of the Premier's argument is wrong in law. Under the old Child Welfare Act, charges were not laid for children who were neglected or uncontrollable; complaints were made. Of course, neglect also included exposure to moral danger. This is not a fine point; the Premier understands what I am talking about. Having prosecuted for many years, I can remember when children - it could have been a babe in arms - were brought into court by the Child Welfare officer and complaints were then read out in the following form, "Billy Bloggs being a neglected child within the meaning of the Child Welfare Act", and so on. That is different from cases in which children were brought in and charged with a criminal offence, assuming that they were not doli incapax.

The Premier also gave the example of parents supplying something to a child to commit an offence such as vandalism. We then enter the difficult area of aiding and abetting, and procuring. In the other example of a parent giving the car keys to a 12-year-old child, not only is the child an unlicensed driver but the parent can be charged with the offence of permitting an unlicensed or uninsured driver to use a vehicle. In terms of the Premier's argument, under the Child Welfare Act, children appeared in court on a complaint of neglect, lack of control or any other matter; under the children's protection Act, children appeared on complaints of being in need of care.

I simply draw that matter to the attention of the House so that there is no misunderstanding about the impact of the legislation on dealing with children. Of course, it comes back to the definition of "a child" within the meaning of the law. The definition needs to be understood both in terms of what the law was in practice, what it currently is and what it may well be, depending on the House determining its position on these matters tonight. I have not raised these matters to be a smarty; I have raised them simply because the Premier and I both practised in that jurisdiction for a time. We both know what he meant. However, it is difficult for people who have not worked in those jurisdictions to understand the niceties of what we are discussing.

Mr LONGLEY (Pittwater - Minister for Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing) [5.35]: The comments of the honourable member for Liverpool do not alter the full impact of the Premier's point. Therefore, the Premier's point still stands absolutely and fully.

Mr AMERY (Mount Druitt) [5.35]: I do not think that the Premier's point stands at all. I do not believe what I just heard from the Premier. His point was that the amendment, by making someone else responsible, will drag the parents in, will tear families apart. Children will be boxed over the ears. That is incredible. That is the Premier's position on the Summary Offences and Other Legislation (Graffiti) Amendment Bill. The whole of the second reading speech of the Premier on the Children (Parental Responsibility) Bill related to making parents more responsible for young people. Basically, that is the theme of this legislation. As the honourable member said, we could drag parents before the court and make them give undertakings. We could ensure that parents are charged with neglect, with maximum penalty points of 10 units, and so on. The honourable member said that the Summary Offences and Other Legislation (Graffiti) Amendment Bill will tear families apart.

I bring to the attention of the Premier the wording of the legislation. It states that in addition to any penalty the court may impose for the commission of an offence, the court that convicts the child of such an offence may make an order requiring the parent of the child to pay a fine. As the honourable member for Liverpool said, it is discretionary. Of course, the magistrate will take into account the financial circumstances of the parents, their ability to pay and the question whether the parent perhaps contributed to the offence by not caring for the child at home. Perhaps the issue of not having proper care and responsibility relates more to the Children (Parental Responsibility) Bill. The honourable member for Manly pointed out, correctly, the inconsistency of the Premier's argument. It is incredible. The Premier's argument is defeated by the principle

bill.

Dr MACDONALD (Manly) [5.37]: A few minutes ago, I referred to the inconsistency in the cognate bills. The provisions in the Children (Parental Responsibility) Bill are wrong; equally, the provisions in the amendment are wrong. For that reason, I will not support it, although it contains features that I find attractive. There should be parental responsibility but it is not appropriate to impose it by legislation. On many occasions we have heard the argument that responsibility should begin in the early stages of a child's life. I simply restate my position: good parenting comes through family support services, counselling and education. The imposition of fiscal penalties on the parents of young offenders is potentially damaging and divisive to households.

Page 6151

Question - That the amendment be agreed to - put.

The Committee divided.

Ayes, 47

Ms Allan	Mr McManus
Mr Amery	Mr Markham
Mr Anderson	Mr Martin
Mr A. S. Aquilina	Ms Meagher
Mr J. J. Aquilina	Mr Mills
Mr Bowman	Ms Moore
Mr Carr	Mr Moss
Mr Clough	Mr J. H. Murray
Mr Crittenden	Mr Nagle
Mr Face	Mr Neilly
Mr Gaudry	Ms Nori
Mr Gibson	Mr E. T. Page
Mrs Grusovin	Mr Price
Mr Harrison	Dr Refshauge
Ms Harrison	Mr Rogan
Mr Hatton	Mr Rumble
Mr Hunter	Mr Scully
Mr Iemma	Mr Shedden
Mr Irwin	Mr Sullivan
Mr Knight	Mr Thompson
Mr Knowles	Mr Yeadon
Mr Langton	*Tellers*,
Mrs Lo Po'	Mr Beckroge
Mr McBride	Mr Davoren

Noes, 47

Mr Armstrong	Mr Morris
Mr Baird	Mr W. T. J. Murray
Mr Beck	Mr O'Doherty
Mr Blackmore	Mr D. L. Page
Mr Chappell	Mr Peacocke
Mrs Chikarovski	Mr Petch
Mr Cochran	Mr Phillips
Mrs Cohen	Mr Photios
Mr Collins	Mr Richardson

Mr Cruickshank	Mr Rixon
Mr Debnam	Mr Rozzoli
Mr Downy	Mr Schipp
Mr Fahey	Mr Schultz
Mr Fraser	Mrs Skinner
Mr Glachan	Mr Small
Mr Griffiths	Mr Smith
Mr Hartcher	Mr Souris
Mr Humpherson	Mr Turner
Dr Kernohan	Mr West
Mr Kinross	Mr Windsor
Mr Longley	Mr Zammit
Dr Macdonald	*Tellers*,
Ms Machin	Mr Jeffery
Mr Merton	Mr Kerr

Pairs

Mr Doyle	Mr Causley
Mr Whelan	Mr Tink

The TEMPORARY CHAIRMAN (Mr Hazzard): The vote being equal, I give my casting vote with the noes and declare the question to have passed in the negative.

Amendment negatived.

Mr AMERY (Mount Druitt) [5.45], by leave: I move Opposition amendments Nos 3 and 4 in globo:

No. 3 Page 3, Schedule 1, line 18. Omit "6 months", insert instead "3 months".

No. 4 Page 3, Schedule 1. After line 18 insert:

(2) Instead of imposing a fine on the person or sentencing the person to imprisonment, the court:

(a) may make an order under section 4 of the Community Service Orders Act 1979 requiring the person to perform community service work, being an order containing a recommendation of the kind referred to in section 4(1A) of that Act; or

(b) may make an order under section 5 of the Children (Community Service Orders) Act 1987 requiring the person to perform community service work, being an order containing a recommendation of the kind referred to in section 5(1A) of that Act,

as the case requires.

(3) A court that convicts a person of an offence under this section must not sentence the person to imprisonment unless the person has previously been convicted of an offence under this section or section 10A on so many occasions that the court is satisfied that the person is a serious and persistent offender and is likely to commit such an offence again.

These amendments deal with the offence of possession of spray-paint. The bill provides for 10 penalty points or imprisonment for six months. The Opposition wishes to change it to three months. Amendment No. 4 inserts the reference to community service orders. I commend the amendments to the Committee.

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [5.46]: I have already indicated the view of the Government in respect of penalties. Parliament should send a clear message to the judiciary, but obviously that is something the Opposition is not prepared to do, as it is watering down penalties and reducing them by half. They are not penalties, but an indication of the maximum provided and

would serve as a guide for the judiciary. For those reasons the Government does not agree with amendment No. 3. Earlier in Committee I put the arguments in respect of amendment No. 4. There are parts the Government does not oppose, but there are other parts with which the Government does not particularly agree. The Government stands by its arguments.

The TEMPORARY CHAIRMAN: Order! Though amendments Nos 3 and 4 have been moved together, I will put the questions separately because the last amendment moved by the honourable member for Mount Druitt was lost. Amendment No. 4 seems to follow on from amendment No. 2. It would be inconsistent to put amendments Nos 3 and 4 as one question.

Amendment No. 3 agreed to.

Amendment No. 4 agreed to.

Schedule 1 as amended agreed to.

Bills reported from Committee with amendments, and report adopted.

Page 6152

Mr ACTING-SPEAKER (Mr Rixon): Order! It being 5.50 p.m., pursuant to sessional orders the debate is interrupted.

PRIVATE MEMBERS' STATEMENTS

———

NOXIOUS WEEDS

Mr COCHRAN (Monaro) [5.50]: I speak on behalf of rural producers who reside in the Monaro electorate, particularly those whose properties are subjected to infestation by various noxious weeds. Noxious weeds are of great concern to the people of the Monaro, particularly those in the Dalgety area. Their properties have been infested with serrated tussocks, which are spreading rapidly throughout that area and into the surrounding mountains. For a number of years council staff and land holders have treated the weed but, regrettably, it is spreading faster than it is able to be controlled. Serrated tussocks have been the subject of research carried out by the Commonwealth Scientific and Industrial Research Organisation. However, the organisation's funding for research into biological control has been cut. The current practice is to use a chemical compound known as Frenock which causes substantial degradation of the environment.

Many land holders are concerned that this chemical is not achieving all that it is supposed to in eradicating this noxious weed. In addition, there is grave concern that the biological control research which has been undertaken has not produced any worthwhile results. A solution to the problem has not been found. Nodding thistle is a problem in the Adaminaby and Yaouk areas. Biological control has had limited success as a result of research undertaken by the CSIRO. Land holders are quite correctly coming to the conclusion that when sufficient funds are made available to the CSIRO, and research identifies an insect or some other creature which can counteract the spread of noxious weeds, the result is productive and worthwhile for land holders and the country.

A small insect has been introduced to eradicate the nodding thistle. That insect has multiplied slowly, but its performance is noticeable. It is reducing the growth of nodding thistle in those areas. One could draw similar comparisons with African lovegrass in the Bredbo and Michelago areas, between Cooma and Canberra. The grass spreads over the natural pastures and cuts out the sunlight, thereby diminishing the nutrition of the

pastures for grazing and for crops. African lovegrass is of considerable concern to the land holders in that area.

We had the good fortune to have Mr Gratton Wilson as mayor of Cooma-Monaro Shire Council until the last election. He has had considerable experience with noxious weeds and the CSIRO. During his time as mayor he played an important role in assisting the community to make submissions to various government agencies with the view to improving the funding for research into noxious weed control. I commend him. He has retired from his position as mayor, but his interest in this matter has continued. He convened various forums which provided an opportunity for land holders and community groups to find some way to persuade the Federal Government to inject further funds into the CSIRO. I also commend Jim Ryan, the chairman of the upper Murrumbidgee catchment management committee. He has taken an important lead in convincing government agencies to do something about the problems associated with noxious weeds. [*Time expired*.]

BANKSTOWN RESERVOIR

Mr SHEDDEN (Bankstown) [5.55]: I refer to a matter that is causing concern to the greater community in my electorate of Bankstown. The main water reservoir at Bankstown that distributes water to some 180,000 people is structurally unsound and has had its water carrying capacity reduced by 18 per cent, reducing its top water level by 1.5 metres. A Water Board memorandum that was recently released stated that the main reservoir servicing the greater area of Bankstown was in poor structural condition. The memo states:

> Please find a copy of a memo which explains the need to lower the existing top water level by 1.5 m. The modified operating levels would be reviewed during winter and summer months.
>
> These modifications are required urgently to reduce the risk of failure of Bankstown reservoir due to its poor structural condition.
>
> Please note that the modified control settings would lower the available storage by about 18%, and therefore less response time is available in case of a failure . . .

The Bankstown water supply is pumped from the main holding reservoir at Potts Hill to Bankstown and is then dispersed to similar holding reservoirs in Condell Park and Birrong. The level must be kept low in capacity and the reservoir must be watched in case it gets to a critical level. No money has been spent on this reservoir since the issuing of this memo. With the structural condition of the reservoir continuing to deteriorate, like many other assets associated with the Water Board, it would appear that no action will be taken to overcome this ongoing problem. Apparently the Water Board's intention is to abandon the maintenance of the water and sewerage system and its environmental responsibilities. It seems that the Water Board's entire maintenance section is in danger of being scrapped.

The staff who would normally do the structural maintenance on the Bankstown reservoir are on their way to that great black hole associated with the Water Board - 370 Pitt Street, Sydney - called the career assistance program. It is known to Water Board staff as the departure lounge; they are never to return. The future maintenance of Water Board assets certainly does not look good, just like the future of Water Board employees. The structural condition of the main water reservoir at Bankstown is not good. It is

about time the Government took some action with respect to the condition and future of Water Board assets. I ask the Chief Secretary, and Minister for Administrative Services, who is in the House, to forward this information to the responsible Minister in the other place as a matter of urgency so that the necessary maintenance can be carried out to make the reservoir structurally sound and to alleviate the concerns of the people of my electorate.

REGULATION REVIEW COMMITTEE REPORT ON STATE FORESTS REGULATION

Mr CRUICKSHANK (Murrumbidgee) [5.59]: I draw to the attention of the House a report which was

submitted to the House today - the thirty-first report of the Regulation Review Committee in relation to State forest regulations. This is an important report. I draw the attention of the House to the lack of any provision in forestry regulation 1994 for public participation in the drawing up of management plans for the 825 New South Wales State forests. This is contrary to the forestry strategy launched by the New South Wales Government in 1990. That strategy heralded a major shift towards the policy of public participation in forest planning and management. The new forestry regulation 1994 gives State Forests the function of preparing these plans, but it excludes the public from the process. This is not an oversight. State Forests has battled with the committee to keep public involvement out of that process, except at the much later stage of environmental impact statement preparation.

The committee's report in this House canvasses the need for the public to be brought into the process, in conformity with the Government's own policy and in common with the practice in Tasmania, Queensland and Victoria. I am pleased to advise the House that the Minister, as the result of submissions to him by my committee, has overridden the view of State Forests on this matter and has agreed to open up the planning processes for the management of State forests. He has given my committee an undertaking in the following terms, and I read from part of his letter to my committee, dated 21 November 1994.

Dear Mr Cruickshank

Further to my earlier correspondence concerning the Forestry Regulation 1994 I wish to advise that I am prepared to approve an amendment to the following effect which should address the Committee's Concerns:

(2) The Commission must not approve a management plan or a significant amendment to a management plan unless:

(a) the proposed plan has been publicly advertised and the public has been given 30 days to comment on that proposal and any submission by members of the public within that period has been duly considered by the Commission.

The action agreed to by the Minister represents a very significant and positive change in the management of our State forests. My committee commends the Minister for overturning the commission's negative policy on this matter. I commend that report to this House and urge the Minister to move to implement his undertaking at the earliest practicable time.

NURSE TRAUMA COUNSELLING

Mr PRICE (Waratah) [6.02]: I wish to speak on a matter of great concern to constituents in the Waratah electorate. I raise a question about the physical safety and stress or trauma counselling of nurses employed by the Department of Health working in correctional institutions under the control of the Department of Corrective Services, through the Prison Medical Service. In particular, I cite the case of David Moncik, a registered nurse working with psychiatric patients at Long Bay gaol. Mr Moncik has been involved in a number of frightening incidents whilst on duty at the Long Bay prison hospital dating back to July 1993, when he was physically attacked by a prisoner in the presence of a prison officer and was rendered unconscious. In addition to the abrasions he suffered, later medical diagnosis revealed a whiplash condition that required five working days off duty. I wish to refer to several reports furnished to the GIO. The first is a statement by Mr Moncik himself:

10th July 1993. Whilst dealing with an inmate . . . on segregation order, I was physically assaulted by this inmate. Injuries sustained included laceration, concussion and `whiplash injury'. Treated at Maroubra Junction Medical Centre. Assault reported to Malabar Police Detective. On return to work I developed post traumatic stress symptom. I requested help and a Psychologist from the firm McHale and Fischer visited my workplace once only to administer EMDR Treatment. Inmate was later sentenced in court regarding this incident, inmate however did remain in my workplace for several months following the assault. My duties involved having to give direct care to this inmate each day I was on duty. This was a cause of daily stress [for] me, as inmate continued to assault Prison Officers and Nursing Staff whilst housed in the Ward.

I refer to a further incident, mentioned in the report by a Dr Stephen Freiberg of the Wycombe Clinic. That report was referred to the GIO at the time. The report stated:

On 26 July 1993, Mr. Moncik was asked by nursing administration to work a double shift, so as to cover a colleague who was off sick. He therefore was "in charge" of both [the] 3.00 p.m. to 11.00 p.m. shift, and the 11.00 p.m. to 7.00 a.m. shift which followed.

Problems arose with a particular patient . . . Mr. Moncik had to deal with this patient, who had become violent, and was throwing furniture around. Mr. Moncik feared that the behaviour would escalate and that he would become violent towards other patients and staff.

Mr. Moncik had to deal with the patients as well as liaise with other nurses and prison officers. He was concerned about very psychotic patients in the cells next to [this particular prisoner].

Much of the details of this event are described in Mr. Moncik's statement to the GIO (dated 10 December 1993). . . .

Mr. Moncik was traumatised by this event in several ways. He was responsible for the patients and nursing staff on the ward, and felt unsupported by the prison officers. This vulnerability was heightened by [the prisoner] focusing his abuse on to Mr. Moncik after the prison officers refused to inform him that he was being placed in a "Dry Cell" for his own safety.

The increasingly vicious verbal abuse and threats to Mr. Moncik culminated in the patient throwing a pile of soiled linen at him.

Page 6154

After he was placed in the dry cell, the verbal abuse and death threats continued unabated for serval hours. [The prisoner] spat at Mr. Moncik every time he attempted to nurse patients in the nearby cells.

The prisoner threatened to "smash his skull with a brick". Mr. Moncik was extremely worried by these open threats because he knew that the prisoner was on remand for a charge of killing a man by driving a screwdriver into his skull.

[The prisoner] would scream out, "I know where you live, I'll be waiting near your home for you".

That is extremely disconcerting treatment for any officer of a State department. My particular concern is about apparent indifference to the plight of nurses working in prison hospitals of the Department of Corrective Services and the Department of Health. It is alarming that nurses - apparently this experience is typical for many throughout the service - should feel threatened and alone. Trauma counselling is an important aspect to assist them in their work. The opportunity for trauma counselling should not be denied them. Nurses working in the psychiatric sections of Department of Corrective Services prisons should have automatic treatment or at least the offer of treatment after incidents such as those described by Mr Moncik.

AUSTRALIAN ROTARY CLUBS

Mr KINROSS (Gordon) [6.07]: I wish to express great pleasure about a paper that honourable members of this House have received from the Thornlie Rotary Club of Western Australia. I wish also to refer to the good work done by a number of rotary clubs in the Gordon electorate, by Mr Peter Wilkinson of the St Leonards Rotary Club, and also by Mr John White and Mr David Forsythe, husband of the Hon. Patricia Forsythe in the other place, who are members of Ku-ring-gai Rotary Club branch. I refer in particular to an excellent paper entitled "Creating Permanent Employment for our People", a report from Australian Rotary Clubs dated November 1994. The report is especially apt in the Gordon electorate where - surprisingly for honourable members opposite - there is a high proportion of unemployed, especially middle-aged people who, after working very hard in their early years and in middle management, have been retrenched due to no fault of their own. They are more likely to have been retrenched as a result of the recession that infamous person, the Prime Minister we had to have, said we had to have.

I turn to the specific discussions and solutions mentioned in the report. The report is an ordered selection of thought-provoking ideas to help solve the problem of unemployment in Australia, and is the result of a

number of responses by a wide range of Rotary club members throughout Australia. The report by no means professes to have all the answers, nor is it an ideological or statistical report of the type we are accustomed to receiving from the Federal Government. The report gives great consideration of commonsense ideas - which in this day and age are all but common - and offers practical solutions to some of Australia's most urgent problems. The great challenge facing society today is widespread unemployment, especially among young people. There is an ongoing need to retrain young people to cope with the increasing demands that new technology and a high-tech society place upon future jobs and fair work practices generally. It is a basic principle that everyone should have an equal opportunity to work, preferably doing something they enjoy.

Achieving work for all would save many social costs associated with family break-ups, medical bills, mental breakdowns, accidents, increased crime, and suicides - and honourable members will be aware of the work done by the Hon. Dr Marlene Goldsmith and the report of the Standing Committee on Social Issues which details the effects of the crisis in rural New South Wales. The Rotary clubs in my area have put an enormous amount of effort into providing some of the material that formed the basis of this report, and trying to assist young people in so many facets of life. There is not time to go through the report in detail but I recommend that all honourable members who have received it from the Rotary club in Western Australia read it. On page 6 under the heading "What can Rotarians do now?" the report says:

1 Read the full Report.

2 Encourage all members of your Rotary Club to read the Report

3 Hold numerous discussion groups to look at the ideas in the Report. Invite Rotaract and people in industry as guests to participate.

4 Photocopy the Report and spread it far and wide to all other members of your businesses, local universities, colleges and schools, Probus and Rotaract.

5 Invite other organisations and groups to hold discussion groups about ideas in the Report.

6 Encourage your Local Councillors and Members of Parliament to read the Report. All politicians have received their personal copy.

7 Think about Appendix C.

Very briefly, appendix C talks about financial help for inventors, "The Advance Australia Rotary Vocational Fund". This is an example of some excellent work done by people in a voluntary capacity, picking up on the excellent work of the clubs in the electorate of Gordon, as Rotary does in so many areas. I commend the report to honourable members.

SPEERS ROAD NORTH ROCKS LAND

Ms HARRISON (Parramatta) [6.11]: I would like to bring to the attention of the House and the Minister for Education, Training and Youth Affairs yet another broken promise made to the people of the Parramatta electorate by the Government. I refer to the imminent sale by the Department of School Education of 6.8 hectares of vacant parkland situated on Speers Road at North Rocks. The proposed use for this land is medium density housing. A number of issues would arise out of such a development. Locals advise that this is the only level playing field for local children within a four-kilometre radius. Existing traffic problems on narrow streets would be exacerbated if the number of residents in the area was so intensely increased.

Page 6155

In addition, the community is concerned about extra run-off of rainwater into an area already affected by flooding during heavy rain. As this parkland is one of only a few open spaces in the area, retaining it in public ownership is essential. The local community is deeply concerned that it could lose the oval and surrounding

bushland to a housing development. So much so that on 9 November I was invited to attend a site meeting of local residents - and they numbered more than 120. Of utmost concern is the State Government's action in reneging on its promise that the land would not be sold off. For many years this land had been set aside as a possible school site; and it was promised that the land would be kept as open space if a school was not needed.

I have a copy of a 1987 press release by the then shadow minister for the environment, Mr Tim Moore, which stated, "The land set aside and no longer needed for a public school at Speers Road should be used for public parkland". This commitment was also given by the Minister for Transport, and Minister for Roads at a protest meeting on site. I have letters from residents at the meeting who remember very clearly these promises being made by the Minister for Transport, and Minister for Roads. Further, the then shadow minister for the environment recognised that problems similar to those I have already stated might arise.

In a letter of appreciation of the efforts of the honourable member for The Hills in clarifying the concerns and preferences of the local community to provide a basis for any further negotiations for the disposal of this land, the then Minister for Administrative Services, Mr Robert Webster, said on 28th September 1990, "The land should be used for open space". It would appear that when faced with the prospect of making a fast buck the Government no longer has regard for the concerns of residents. The position was well summarised in a letter to me by a local resident, Mr George Medhurst, who said:

> Could you please explain to me how it is possible for Mr Baird to make these statements and upon election completely ignore his promises.

There is also another issue of concern regarding the sale of this public land. In a statement to the *Hills Shire Times* published on 23 November, Mr Greg Christie, the administrative and finance director for metropolitan west, Department of School Education, said the Government had never guaranteed the land's future. He was quoted in the local press as stating, "there were no promises made". Clearly, I have evidence that he is wrong; but that is not the issue. It is entirely inappropriate for a public servant to enter into a political debate with an elected representative in the press. As a resident of Speers Road, A. Mazur, said:

> . . . the tail is wagging the dog in so far as the Departments are telling the Minister and the Government what the Government should be doing.

Quite simply, the people of North Rocks have been betrayed by the Government. The Minister for Education, Training and Youth Affairs should honour the Liberal Party's commitment made to the residents. Further, the Minister should inquire into the ill-informed involvement of Mr Greg Christie. Finally, I would like to say that the Carr-led Labor Government, when elected in March 1995, will not sell the Department of School Education land at Speers Road, North Rocks.

ADOPTION LEGISLATION

Mr HUMPHERSON (Davidson) [6.15]: I wish to speak about the rights of adopted children and their families who do not wish contact with the natural parents, and I will ask the Minister to arrange for the investigation of a specific case that I will shortly set out. I will omit names for the sake of privacy, but will supply them later to the Minister. I quote from a document supplied to me:

> Our son was adopted in 1972. We as parents have always been open and honest with him about all aspects of his adoption.
>
> When the law was changed, we discussed the matter as a family and he decided that he did not want to contact, and therefore placed his veto to protect his privacy in 1991 (this was done before the deadline date).
>
> In April 1994, he received a letter at his place of employment (Department of Army) from the Department of Community Services in Parramatta. When he received this letter the Army wanted to know if he was in some sort of trouble, he said "No" as he was just as puzzled, owing to the fact the letter did not explain why he had to contact them.

He made contact with the person concerned at the Department, and was told there was a letter from his natural mother on file for him to have. He then told his Sergeant what the letter was about. The Sergeant then suggested he contact the Army Chaplain who would give him an unbiased opinion. Contact was made with the Chaplain who felt that if he accepted the letter, the Department would stop annoying him, and that it may stop further contact and harassment.

Our son then contacted the Department, they sent the letter, but he has not answered - and does not want any more and/or any other form of contact.

The contact in his case was made by the Department of Community Services on behalf of the natural mother and as mentioned above made at his place of employment. Now this is what worries us, nowhere in any of his belongings or documents with the Army is there any other address but his home address. The Taxation Department would be the only place any other information would be on file eg: (place of employment and address).

Why after filling out a veto can his privacy be invaded, and because our son wants his privacy we will never know the real story of how the information was obtained.

At the time he placed his veto we did suggest he put a note on saying he was well and happy but wanted no contact. He refused to do same, saying he wanted no contact at all. We as a family are not against contact, but only if the persons concerned are all agreeable. Filling out the veto was a waste of time and money in his case.

The questions the parents would like answered are as follows. How can veto be broken by the Department of Community Services once lodged? How was information obtained by the department and sent to the son's place of employment? And when will the loopholes in the amendments to adoption laws be tightened up to protect people's privacy? These were the fears predicted by the adoptive parents. I ask that the Minister investigate this unfortunate incident and report back.

Page 6156

Mr HARTCHER (Gosford - Minister for the Environment) [6.19]: I thank the honourable member for Davidson for raising this important matter. It is a fundamental right of natural parents to seek contact with children whom they gave up for adoption many years ago, but adoptive children and adoptive parents also have rights. They have the right to maintain an undisturbed family unit if they so choose. In New South Wales there are approximately 250,000 adopted children and similar incidents to that referred to by the honourable member for Davidson have, unfortunately, happened in the past. Many people are concerned about intrusion into their lives, and under the law they have the right to veto contact. Clearly, in this case that right has been violated, and that is intolerable. The privacy of family life has been invaded by bureaucratic error or bureaucratic incompetence.

I shall raise this matter with the Minister for Community Services to investigate to ensure that vetoes are respected and that the rights of adoptive families and adoptive children are also respected. This is the International Year of the Family. These parents have established families that include adopted children who, for reasons unknown to us, were not able to be looked after by their natural parents at birth. Loving and caring families have been established, and their family life must be and shall be respected by this Government. The law requires it and natural human rights require it. In the unfortunate case raised by the honourable member, the present system has proved to be unsatisfactory. I intend to see that the Minister for Community Services takes appropriate action to ensure that contact vetoes are properly respected in the future.

POLICE CONDUCT

Mr YEADON (Granville) [6.21]: I raise a serious matter involving senior police and a constituent of mine, Mr Alister Theoitistou, also known as Alister Theo. Mr Theo was acquitted by a jury before District Court Judge Kinchington on 8 November 1993 after a long trial for assault charges. The charges arose out of a

brawl at a Parramatta club at around midnight on 5 May 1989 in which a number of senior off-duty police were involved. All of the off-duty police were affected by alcohol, following a send-off for a detective sergeant that had commenced at around lunch time on the same day, some 11 or 12 hours prior to the incident.

During Mr Theo's trial strong evidence was given that he and several other young men were arrested as scapegoats for the brawl. The police involved in this incident gave evidence that Mr Theo had engaged in a kicking attack on a fallen detective during the fight. But the evidence of those police was rejected by the jury and Mr Theo was acquitted. The matter was the subject of a complaint to the Ombudsman shortly after the incident occurred in 1989, but it was delayed because of the conduct of the trial. Clear evidence was given at the trial that the off-duty incident police all gave perjured testimony and had colluded in giving it; that these experienced detectives held a joint conference for the purpose of giving their versions to the investigating police.

A single photograph of Mr Theo, the accused, was viewed by the incident police immediately prior to their making their statements. There was no line-up and no viewing of a number of photographs of various people; just a single photograph of Mr Theo. Identification of the accused was central to the trial as Mr Theo was arrested outside the club shortly after the brawl from among a number of club patrons who had moved outside the club during and immediately after the fight. The incident police involved returned to Parramatta police station, along with investigating officers, that night and conducted themselves like cowboys. My constituent was belted by various of them. The most disturbing aspect of this case is not so much that the jury should have rejected the ludicrous evidence of the incident police downplaying the role of alcohol in their conduct, but that the jury rejected the unequivocal and direct evidence of the officers about a vicious attack that supposedly took place before their very eyes.

It is interesting to note the role of a police officer - a director of the club at the time who was present on the night concerned - who saw nothing of relevance in relation to anything. It is extraordinary that a barmaid employed at the club who had the best view of anyone of the incident was called as a witness for the defence. It is extraordinary that a doorman at the club who removed a violent officer from the club during the brawl and who lost his job at the club shortly after was called as a witness for the defence. It is extraordinary that the doorman was told by the police officer who was a director of the club that the incident police were on an undercover operation. This is despite the fact that all other witnesses testified that the incident police were at the club to simply socialise and drink.

My constituent was acquitted by a jury and is grateful that justice prevailed, but this incident cost him and his family thousands of dollars, not to mention the devastation, trauma and public humiliation they have suffered as a result of these accusations. My constituent and his family are respected members of the Merrylands community. They conduct a security business in Merrylands and are well known by many people. The incident was referred to the Ombudsman, and the Ombudsman's office has informed me that despite its belief that there is overwhelming merit for a further investigation, no resources are available for that investigation. I demand that the Government ensure that resources are made available to the Ombudsman to investigate this matter and that if these police are found guilty - as I am sure they will be if a proper investigation is held - my constituent and his family be properly recompensed for the money it has cost them and for the humiliation and trauma they have suffered as a result of being identified by what were simply a bunch of cowboy police officers who engaged in a brawl in a club at Parramatta.

BUILDING APPLICATION APPROVAL

Mr MERTON (Baulkham Hills) [6.26]: I speak on behalf of two of my constituents, Alan and Sandra Ireland of Baulkham Hills. This couple has a holiday house in Bonnells Bay in the Lake Macquarie area. They and their family have spent many happy hours of relaxation there, as they have done during the past 20 years. Mr and Mrs Ireland first received notification on 29 June 1993 that a neighbour had lodged a building application, No. 93-2338, for a crib retaining wall. As was their right, they forwarded a letter of objection to

the Lake Macquarie City Council on 7 July 1993 covering the following points: drainage, aesthetics, loss of privacy, partial loss of water view, safety, obtrusive, maintenance free and loss of breeze. Mr Ireland informed me that he was advised by council officials that the building application did not encroach the 36 metre high-water mark building alignment. The application was approved by delegated authority on 10 September 1993. However, a letter dated 18 November 1993 to Mr and Mrs Ireland from Mr R Grey, General Manager, City of Lake Macquarie Council, stated:

> It is now evident that an error has been made in the process and that a development application should have been required and the applicant requested to submit a SEPP No. 1 objection to the development standard, i.e., the 36 metre building line albeit in line with the existing dwelling which encroaches approximately 5 metres upon the 36 metre building line.

My constituent informs me that senior council staff stated on 22 September that the building application did not encroach upon the high-water mark. Mr Ireland has asked how there could have been a comprehensive review of the procedure on 23 September 1993, which found no encroachment, yet the general manager of council admits to a major error in a letter dated 18 November 1993. Mr Ireland asks why council has not addressed the fact that the wall does not meet the plans and specifications in the following respects: the overall height at neighbouring side is 3.3 metres and not 2.8 metres, the drainage is incomplete, the wall causes the run-off stormwater to divert to Mr Ireland's property, the wall fill is not clean fill but still contains old building materials, the concrete sections are levelled using wood packing that will rot and decay and allow the wall to distort, and the one metre concrete block section attached to the existing building is greater than one metre, approximately 1.2 metres, thus extending on to the next lot.

To compound Mr Ireland's problems a further building application, No. 94/01957, was lodged to extend the wall. As requested by my constituent, representations were made to the Minister for Energy, and Minister for Local Government and Co-operatives. The ministerial response states that the wall that Mr and Mrs Ireland objected to was 27.1 metres from the deemed high-water mark and was 2.05 metres above natural ground level. Mr G. H. Larkin, a consulting structural and civil engineer, provided a report to Mr Ireland. He has examined the plan, and the height of wall shown, 2,800 millimetres, is the maximum height of wall measured vertically from the outside edge of the wall at ground level to the top of the wall. A further report from Mr M F. Haines, a consulting engineer, stated that the height of wall, 2,800 millimetres, is the maximum height of wall measured from the outside edge of the wall at ground level to the top of the wall.

The ministerial correspondence also advised that a letter had been drafted by council to Mr Ireland informing him of council's decision to approve the recent building application, but because of an administrative oversight by council the letter was not sent out. As a result of further inquiries carried out by the Department of Local Government and Co-operatives, council staff became aware of the oversight and sent the letter to Mr Ireland. My constituent has grave concerns about the handling of this matter. He has asked me to request the Minister to organise an on-site meeting with an officer of the Department of Local Government and Co-operatives, interested councillors and council staff to fully discuss the whole matter. I now call upon the Minister in another place to agree to my constituents' request. [*Time expired.*]

ALBION PARK HOME AND COMMUNITY CARE CENTRE FUNDING

Mr HARRISON (Kiama) [6.31]: I am concerned about the uncertainty of funding for the new Home and Community Care centre at Albion Park in my electorate. The centre is being constructed under a joint funding arrangement between Federal, State and local governments. It is a fine building, but the real problem is the doubt about whether the building will be able to open in the immediate future because of uncertainty about the level of round 10 HACC funding, which at this time has not been announced. The centre's management team has had no indication of funding for the employment of a coordinator or part-time clerical staff and is unable to plan ahead. I wish to publicly ask a number of questions. Does the New South Wales Government intend to match the Federal Government's offer of growth funds for round 10 of the HACC funding program? The Federal allocation has not been fully matched during the term of office of this Government, so more than $170 million has gone begging. The New South Wales HACC program and the needy people who should be

maintained in their homes instead of being institutionalised have lost more than $170 million.

Last year most of the Government's meagre allocation of growth funds to the HACC program were used to meet unfunded home care superannuation liabilities. The result was that the needs of many target groups were left unmet. Why has there been a sudden departure from the established consultative process between community representatives and HACC clients to a rushed and secretive consideration of round 10 funding? In previous years a fine consultative process has been undertaken. Community representatives and representatives of local government and local regions

have been consulted. Although there has never been enough money to do the job the way everyone would like it to be done, at least some sort of consensus was reached at the end of the day. Rumours now abound that the growth funding for the Illawarra region will amount to only $75,000 and that other regions will receive well in excess of $1 million.

Everyone knows that it is nice to live in our coastal areas or to retire there. Consequently, coastal areas have more than their share of country people who retire to live in pleasant surroundings during their final years. However, when they become incapacitated they lose the family support they would have had if they had not gone to the coast. They are left high and dry and dependent on the HACC program. Bearing those matters in mind, any move to cut back on the service is totally unforgivable. What formula will be used to allocate increases to the various regions of New South Wales? Will it be done with the use of a whiteboard and on the basis of electorates receiving big handouts on the eve of the election to assist the Government's chances, or will it be a fair allocation under which coastal retirement regions such as the Illawarra will receive fair funding?

We are all committed to the philosophy of people remaining in their homes for as long as possible and avoiding the indignity and trauma associated with institutional care. We are all committed to the funding of sitting services, aged care and respite care. Why is this cloud of secrecy hanging over round 10 HACC funding? I thank the Minister for Community Services for being present for my statement. I seek an acknowledgment from him that funding for all regions in the State will be fair and based on need rather than on political considerations. I ask that an announcement be made as soon as possible in relation to round 10 HACC funding.

Mr LONGLEY (Pittwater - Minister for Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing) [6.36]: When the honourable member for Kiama advised my office that he intended to make a private member's statement, I was interested to hear what he would say. I assumed he would congratulate the Government on the construction of the new HACC centre at Albion Park and ask me to open it. However, he has asked a number of questions. I am disappointed that he advanced the rumour that growth funding for the Illawarra will be only $75,000. When the allocation is publicly released, I think he will be pleasantly surprised. The rumour is certainly not based on fact. He asked also what formula will be used and whether it would be politically driven. For several years I have been putting particular emphasis on a needs-based allocation formula. That ensures as much equity as possible between the different regions of the State. All honourable members can have confidence in that process. The honourable member for Kiama also referred to a cloud of secrecy. I assure the honourable member that there is no cloud of secrecy. The process is as open and transparent as possible. He also mentioned consultation, and I can assure him that extensive consultation has occurred. After consultation, funding proposals go to area offices, then to the joint officers group, which comprises both Federal and State officers, then to the State Minister, and then to the Federal Minister.

Private members' statements noted.

BUSINESS OF THE HOUSE

Hours of Sitting: Suspension of Standing and Sessional Orders

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [6.40], by leave: I move:

That:

(1) Sessional Orders be suspended to extend this day's sitting beyond 7.00 p.m.; and

(2) Members not be permitted to call a division on any question or call attention to the want of a quorum after 7.00 p.m. at this sitting.

I foreshadow that tonight the House will deal with the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Bill, which I will seek to declare urgent as it does not meet the appropriate time frame. We will deal also with the Professional Standards Bill, the Statute Law (Miscellaneous Provisions) Bill (No. 2), the Crimes (Dangerous Driving Offences) Amendment Bill and cognate bill, the Energy Legislation (Miscellaneous Amendments) Bill and the Minister's second reading speech on the Crimes (Home Invasion) Amendment Bill.

Motion agreed to.

RESIDENTIAL TENANCIES (CARAVAN PARKS AND MANUFACTURED HOME ESTATES) AMENDMENT BILL

Bill received and read a first time.

BILL RETURNED

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

Independent Commission Against Corruption (Amendment) Bill

FARM DEBT MEDIATION BILL

Bill returned from the Legislative Council with amendments.

In Committee

Consideration of Legislative Council's amendments.

Schedule of amendments referred to in message of 1 December.

No. 1 Page 3, clause 4, line 22. Omit "power", insert instead "a power".

No. 2 Page 3, clause 4, line 27. Omit "Act", insert instead "This Act".

No. 3 Page 4, clause 7. After line 12, insert:

(2) Nothing in this Act is to be construed as affecting the operation of the Banking Act 1959 of the Commonwealth and, in particular, the duty of the Reserve Bank under Division 2 of Part II of that Act.

No. 4 Page 4, clause 8, line 22. After "farmer" where secondly occurring, insert "in respect of the farm mortgage".

No. 5 Page 4, clause 8, line 26. Omit all words on that line, insert instead "Authority (informing the farmer of the creditor's intention to take enforcement action in respect of the farm mortgage and of the availability of".

No. 6 Page 4, clause 8. After line 27, insert:

(3) This section does not apply if the Authority has given a certificate under section 11 in respect of the farm mortgage concerned.

No. 7 Page 5, clause 10, lines 10-12. Omit all words on those lines, insert instead "until the Authority has given a certificate under section 11 in respect of the farm mortgage.".

No. 8 Page 5, clause 11, lines 13-22. Omit all words on those lines, insert instead:

Certificate that Act does not apply to farm mortgage

11.(1) The Authority must, on the application of a creditor under a farm mortgage, issue a certificate that this Act does not apply to the farm mortgage if the Authority is satisfied that:

(a) satisfactory mediation in respect of the farm debt concerned has taken place; or

(b) the farmer has declined to mediate in respect of the farm debt; or

(c) 3 months have elapsed after a notice was given by the creditor under section 8 and the creditor has throughout that period attempted to mediate in good faith (whether or not satisfactory mediation has taken place during that period).

(2) A farmer is presumed to have declined to mediate if any of the following circumstances is established:

(a) the farmer has failed to take part in mediation in good faith or has unreasonably delayed entering into or proceeding with mediation;

(b) the farmer has indicated in writing to the Authority or to the creditor that the farmer does not wish to enter into or proceed with mediation in respect of the debt concerned;

(c) the farmer has failed to respond within 28 days to an invitation in writing given to the farmer by the creditor to commence mediation in respect of the farm debt.

(3) The regulations may make provision for or with respect to what constitutes satisfactory mediation.

(4) A certificate may be given under this section (except under subsection (1)(c)) whether or not any notice has been given under section 8.

No. 9 Page 5, clause 12, lines 30-34. Omit all words on those lines, insert instead:

(2) The Authority is to make arrangements for the referral of parties to mediation for the purposes of this Act. The Authority is not liable for any of the costs of or associated with mediation for the purposes of this Act.

No. 10 Page 6, clause 13, line 3. Omit "creditors who wish to be heard", insert instead "creditor".

No. 11 Page 6, clause 13, line 4. Omit "creditors", insert instead "creditor".

No. 12 Page 6, clause 13, line 5. Omit "creditors", insert instead "creditor".

No. 13 Page 6, clause 13, lines 7 and 8. Omit all words on those lines.

No. 14 Page 6, clause 13, lines 9-11. Omit all words on those lines, insert instead:

(e) to advise, counsel and assist the farmer and the creditor in attempting to arrive at an agreement for the present arrangements and future conduct of financial relations among them.

No. 15 Page 7, clause 17, line 32. Omit "any", insert instead "the".

No. 16 Pages 11 and 12, clause 31, line 29 on page 11 to line 4 on page 12. Omit all words on those lines, insert instead:

Expiry of Act

31. This Act expires on the second anniversary of the commencement of section 6.

Mr AMERY (Mount Druitt) [6.43]: I move:

That the Committee agree to the Legislative Council's amendments.

I thank the members of the Legislative Council for the speedy passage of the Farm Debt Mediation Bill. I thank in particular Reverend the Hon. F. J. Nile and the Hon. Elaine Nile who moved a number of amendments which were supported by the New South Wales Farmers Association. That association, in consultation with the Australian Labor Party, agreed to all but one of the proposed amendments. It was established that the amendments proposed to be moved by the Australian Democrats were covered by the two-year review process. The Opposition does not agree in principle with amendment No. 16 which states:

Pages 11 and 12, clause 31, line 29 on page 11 to line 4 on page 12. Omit all words on those lines, insert instead:

Expiry of Act

31. This Act expires on the second anniversary of the commencement of section 6.

This proposed new section will replace the section in the Act that requires it to be reviewed after two years. It is incumbent upon the government of the day to ensure that the Act is reviewed after two years. Farm debt mediation should be a longstanding and established practice in this State. There was no consultation in regard to amendment No. 16, which was introduced in the late stages of debate. As I have said, the Act can be amended very simply after the expiration of the two-year period. It is now the responsibility of the Government to ensure that this bill is proclaimed. We will be campaigning for its proclamation at the earliest opportunity.

In debate in the Legislative Council the Hon. D. J. Gay said that the bill and the amendments had been drawn up in secrecy. There was no secrecy involved in the drafting of the bill or the amendments. In May the Opposition shadow cabinet first authorised an investigation into farm debt mediation. On 20 July I and the honourable member for Port Stephens met at Dubbo with farmers and a solicitor called Dennis Cooney. He put forward a proposition for farm debt

mediation which required amending the Contracts Review Act. On 21 July I issued a media statement calling on the Government to introduce this legislation. On 31 August at the Dubbo Returned Services League club, the Leader of the Opposition, the honourable member for Port Stephens and I met with a number of farmers.

[*Interruption*]

I am responding to the comment that these amendments were drawn up in secrecy. A lot of people would have been upset by that comment. On 14 September the first draft bill was circulated.

Mr West: On a point of order: debate on this legislation should be restricted to the amendments and message sent by the Legislative Council. The honourable member for Mount Druitt is not entitled to reply to the second reading speech or to comments made in the second reading debate. The events to which he is now referring bear no relevance to the matter before the Committee.

The CHAIRMAN: Order! I uphold the point of order. Debate must be restricted to the scope of the amendments.

Mr AMERY: Amendment No. 8 was moved in the Legislative Council to tidy up certain aspects of the legislation. The Opposition is quite happy with the amendment moved by the Legislative Council. All the other amendments basically tidy or fix up other aspects of the legislation. I will release details of the consultation process tomorrow. With the exception of the last amendment, which refers to the sunset clause in the bill, the Opposition is happy to accept these amendments. In two years time a Labor government will introduce amending legislation.

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [6.49]: I was aware that these amendments were to be sent to the Legislative Assembly. I have discussed this matter with the Minister for Agriculture and Fisheries, and Minister for Mines who has indicated to me that, as a result of discussions and negotiations, he agrees with these changes. The honourable member for Mount Druitt went through a list of people that he wanted to congratulate and thank. This is one bill that sought the cooperation of all honourable members. It did the honourable member for Mount Druitt no credit to go through his list and thank those who contributed to the debate. This was a private member's bill and the honourable member for Mount Druitt can certainly claim that credit, but to go beyond that is, as the honourable member for Manly would call it, almost an example of participatory government and the result is one that hopefully will assist farmers but will not lead them into a sense of false security.

Motion agreed to.

Legislative Council's amendments Nos 1 to 16 agreed to.

Resolution reported from Committee and report adopted.

BUSINESS OF THE HOUSE

Bills: Suspension of Standing and Sessional Orders

Motion by Mrs Chikarovski agreed to:

That Standing and Sessional Orders be suspended to allow the resumption of the adjourned second reading debate on the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Bill.

COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION) FURTHER AMENDMENT BILL

Second Reading

Debate resumed from 30 November.

Mr MARKHAM (Keira) [6.54]: I support this legislation on behalf of the Labor Opposition, which has a number of coalmines and coalmining families in Labor electorates. Schedule 2 relates to the COALSUPER Retirement Income Fund and that spells out quite plainly the effect of this amending legislation. The schedule omits sections 18 and 18A and inserts instead:

COALSUPER Retirement Income Fund (the Amalgamated Fund)

18.(1) On the commencement of Schedule 2 to the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act 1994:

(a) the COSAF Fund is amalgamated with the Coal and Oil Shale Mine Workers Superannuation Fund (as established under this section as in force before that commencement); and

(b) the fund so established is continued with the name COALSUPER Retirement Income Fund ("the Amalgamated Fund").

It also takes into consideration another aspect of mineworkers and their families by maintaining, on page 17 of the bill under "Special provisions applicable to Pension Account" as follows:

18C.(1) In this section, "**Pension Account**" means the account kept under subsection (2).

That is actually the fund which is used to pay retired mineworkers and their families, or the widows and dependent children of a deceased mineworker who retired from the mining industry prior to a lump sum payment being brought in as a superannuation measure. It is obvious from the Minister's second reading speech and from an examination of the bill that those areas are covered. I am pleased because a number of people have expressed concern in that regard. I would like to refer to a letter addressed to the Hon. Pat Rogan MP from Ron Land, Secretary of the United Mineworkers Federation of Australia dated 29 November. This letter has brought about Opposition support and the speedy passage of this bill through the Parliament tonight. The letter states:

Dear Sir,

I am advised that legislative amendments to the above fund which was the subject of previous correspondence between ourselves is to come before the Parliament today or tomorrow.

Ron Land is referring to the New South Wales Mineworkers Superannuation Fund. The letter continues:

I have examined the final draft of these amendments in detail and can confirm the changes meet with the full approval of the United Mineworkers Federation.

I have also received confirmation from Mr J Boyd (representing all other Unions on the Pension Tribunal) that they are in total concurrence with these amendments.

Accordingly the United Mineworkers Federation requests that the Opposition do all within its power to assist the passing of the bill through the Parliament.

Thank you for your consideration in this matter.

Ron Land has had a long association with mineworkers and their rights on retirement. Without Ron's dedication and input into this legislation the bill would not be in its present form. I acknowledge that, though I also recognise there has been a major push to ensure that this legislation is enacted as soon as possible because of the cost benefits arising out of it to mineworkers and to their families. I understand that is quite considerable, and I shall refer to that later. This strategy is the initiative of the United Mineworkers Federation of Australia. Since 1989 the federation has continually sought specific improvements to the mineworkers' pensions within New South Wales whilst simultaneously pursuing the major goal of full funding of the statutory fund. That has been a problem for many years and an amendment earlier this year took that matter into consideration. The initiatives of the United Mineworkers Federation have been accepted by the New South Wales Coal Association with sincerity and commonsense. It is an example to the Australian industrial arena of the height of achievement that can be reached if unions, employer groups and governments deal honestly with

each other for the common good. Perhaps that should be extended further than superannuation schemes, particularly Australia's negotiations on coal sales overseas.

It is particularly pleasing that special provisions within these amendments are made for the permanent guarantee of fortnightly pensions and the compulsion of employers' contributions on behalf of mineworkers currently employed in the industry. Flexibility in respect to the provisioning of benefits for de facto spouses of mineworkers fatally injured during the course of employment is also greatly welcomed. Some months ago when amendments to the legislation were being debated I raised with the Minister the case of a person who had been left out in the wilderness, so to speak. Everything possible should be done for the widows and dependent children of miners killed at work - miners do tend to die early from work-related illnesses

The combining of these two funds will bring together net assets of $500 million, which will be administered by a new six-person trustee under the COALSUPER Fund. The inaugural chairman of COALSUPER will be the current Coal and Oil Shale Accumulation Fund chairman and acting chairman of the statutory fund, Mr Ron Land. I am delighted with that because Ron Land has put considerable effort into ensuring that payments to mineworkers and their families are the best they possibly can be. The United Mineworkers Federation has spent considerable time and resources in tackling what is essentially a problem of some 50 years standing. The legislation was first enacted by this Parliament in the latter stages of 1941, some 53 years ago. A number of amendments have been made to the legislation in the intervening period, and I shall comment on them shortly. The United Mineworkers Federation remains committed to do all within its power to remain proactive in this area for the benefit of all current and retired mineworkers.

The strategy, once implemented, will bring about savings in the order of $1 million per year, which will be rechannelled into providing better services and benefits for members. That is a result of administering under one trust the two schemes that are now being administered separately. It is my understanding, reinforced by the Minister's speech last night, that people who are disjointed because of the change will be taken care of; other job opportunities will be found for them. Additionally, when the administration is merged, the new common trustee, by being able to lodge a single tax return, will be able to take advantage of significant tax credits that the statutory fund has accrued but will not be able to fully utilise by the time the statutory scheme is fully funded, which we hope will be by the year 2002. Actuarial advice is that the welding of the two funds will allow the industry to utilise fully tax credits available to the COALSUPER retirement income fund. Ron Land has advised me that the utilisation of tax credits could be financially rewarding to the tune of about $10 million in the first two years of operation and, on the advice of the actuary, may exceed $30 million by the time that full utilisation is achieved.

It is obvious that a great deal of work has gone into the bill. The Minister has supported the United Mineworkers Federation by making sure that the bill has come before the Parliament in the present session. The federation is keen to make sure that its members get the best deal possible. I have no doubt that the federation will maintain a strong interest in what happens in the future and will make sure that mineworkers and their families are well looked after. I turn to the demise of the fortnightly pension for mineworkers' widows and dependants. For obvious reasons, there has been a substantial reduction in the number of people claiming the pension. On 20 June 1992, 5,356 people were in receipt of that pension. Twelve months later, on 26 June 1993, the number of recipients had decreased to 4,773, a reduction of 583.

A very good friend of mine, Mr Jack Wright, State secretary of the retired mineworkers organisation, has told me that those in his group are aware of more and more of their old mates dying as a result of various industrial-related diseases. He is concerned that beneficiaries of the scheme should be well treated in the future. The book *Miners in the 1970s - A Narrative History of the Miners Federation*, written by Pete Thomas, makes good reading. A chapter relating to the mineworkers' pension scheme examines the history of the first 40 years of that fund. The history contained in that chapter of the book is relevant to this debate and I should like to share the following quotation with the House:

The NSW Government, acting in keeping with the positions taken by the unions, pressed ahead with the implementation of the new scheme, and legislation for this was introduced into the NSW Legislative Assembly by Mines Minister Hills in March 1978. Under the NSW legislation, the Lump-sum benefit was, for the first year, to be indexed to the mechanical-unit rate (after starting a figure of $100 for each month of service) and after that was to be adjusted on the basis of an actuarial assessment. On the initial rate of $100 for each month, a person with 40 years' service in the industry - for example, from the age of 20-60 would retire with a lump sum payment of $48,000.

The legislation went through the State Parliament successfully in March 1978, implemented the provisions of the NSW agreement which had been reached between the unions and the employers in the latter part of 1977 and had been endorsed by rank-and-file voting. For those on the pension, the rates were fully indexed to the mechanical unit rate. Persons who had retired at the statutory age between 7 November 1977 (a date agreed on when the agreement was finalised in that month) and the commencement of the new scheme were given the right to commute their pension to a lump sum.

As an initial advance, the flow-on of the national 1.3 per cent wage adjustment was applied in June 1978 to the rates under the new NSW pensions/superannuation scheme. This made the rate of lump sum benefit $101.30 for each month of service and brought corresponding increases in pension rates, making the maximum fortnightly married rate $202.70.

Successive subsequent adjustments to the NSW rates up to the end of May 1981 brought the lump-sum figure to $133.03 for each month of service and the maximum fortnightly pension (married rate) to $292.70.

The program embarked on by the United Mineworkers Federation will ensure that mineworkers are looked after much better in their retirement than has been the case under past schemes. That is a crucial development. This is the third time a bill amending this legislation has been brought before the Fiftieth Parliament. I recall speaking on both previous occasions. The first bill to come forward was introduced on 29 November 1992. On that occasion I spoke at some length in the House and made particular mention of families and individuals in receipt of the fortnightly pension. Another amending bill was introduced on 17 March 1994. The number of legislative amendments made in the past 53 years to strengthen the right of mineworkers for a reasonable retirement benefit would suggest that more amendments will be made in the future. Executives of the miners' union are keen, for obvious reasons, to make sure that pension payments keep abreast of cost of living increases. It is important that the bill is progressed through the Parliament expeditiously. It is important that the scheme be operational as soon as possible, given the comments made by Mr Ron Land. The Minister's speech last night included the statement:

Let there be no misunderstanding that work as a coalminer is arduous and dangerous.

Not a truer statement has been made. I am glad that the Minister for Industrial Relations and Employment realises the situation because, as I have said in this place many times, people do not really understand what it is like to work underground unless they have done so. I have that experience. I have a son who works on dogwatch at Appin colliery as an underground electrician. I now recognise the concerns of his young family, although I dismissed these concerns when I was younger. My parents were probably as concerned about me as I am about his safety at work in a dangerous industry. Tragedy lurks around every corner in a coalmine, particularly in deep seam underground mines.

It has been proved over many years that manual work at the coalface over a 40-year working life causes health problems during the working life and into the retirement years. These problems relate to dust inhalation and other health risks. A genuine concern is held regarding mineworkers, and this should be recognised by the Parliament. The Minister for Industrial Relations and Employment in her second reading speech made passing reference to that. Working in an underground mine is certainly not a bunch of roses. I have pleasure in supporting the bill.

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [7.09], in reply: I thank the honourable member for Keira and the Opposition for supporting the bill. This has been a process of negotiation between the union and the employer group. The honourable member for Keira has mentioned the unions. I record thanks for the New South Wales Coal

Association, which has been part of the process in introducing this bill. I particularly thank Dennis Porter, who is also a member of the Statutory Fund Tribunal, for his work on this bill on behalf of that association. The Chairman of the Coal Association, Bob Humphris, had considerable input in the negotiations of this bill, as he did with the bill to which the honourable member for Keira referred. I am aware of the concerns of the honourable member for Keira about the arduous conditions of coalminers. I suppose one saving grace is that some of the diseases to which he referred are decreasing in incidence in the coalmining industry. In fact, I am advised by the Joint Coal Board that the number of miners suffering from those diseases has reduced dramatically, and in some instances no reported cases have occurred for some time.

This legislation is about ensuring that this fund will be run by the industry in the interests of the members and pensioners of that fund. This is what the industry and the union wanted. The legislation before the House is aimed to do that. In conclusion, I look forward to taking up an invitation from the union and the Coal Association to go down a coalmine. As the Minister for Industrial Relations and Employment, it is appropriate that I have a look at how a coalmine works. I look forward to going down a coalmine in my capacity as Minister after 25 March 1995. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

Page 6163

CRIMES (DANGEROUS DRIVING OFFENCES) AMENDMENT BILL

TRAFFIC (NEGLIGENT DRIVING OFFENCES) AMENDMENT BILL

Second Reading

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [7.14]: I move:

That these bills be now read a second time.

Mr HAZZARD (Wakehurst) [7.15]: I support the bills, which arise from the Staysafe 25 report from the Joint Standing Committee on Road Safety titled "Deaths and Serious Injury on New South Wales Roads". The report was compiled with a great deal of good spirit and camaraderie from members on both sides of politics. We perceived the problem of having penalties for offences currently known as culpable driving. The committee regarded the current penalties as totally unsatisfactory.

It is not envisaged by the committee that the new penalties would be imposed in every case - indeed, not even in the majority of cases. However, circumstances arise in which the prosecuting authorities lay the charge of culpable driving as opposed to the manslaughter charge, which is the next charge up the scale. It is appropriate that penalties for more serious cases of dangerous driving be increased substantially. The penalty will increase to 10 years imprisonment. In special circumstances, such as the driver travelling at more than 45 kilometres above the speed limit when the accident occurs which causes the fatality or injury, the increased penalty applies. Where a driver has a high blood alcohol level or, more importantly, is trying to avoid a police pursuit, the penalty should apply.

As chairman of the Staysafe committee, I would be happy to speak to this legislation for all the time to which I am entitled in this debate, but I have given an undertaking to colleagues on both sides of the House that because of the lateness of the hour and the session, I will not speak at length. As it is most important that the legislation pass through the Chamber, I will speak for only three or four minutes.

All members of the Staysafe committee support this legislation. We are pleased that it has managed to

make it to Parliament in this session. One member who was extremely dedicated to this legislation's passage was a former colleague on the other side of the Chamber, Mr John Newman, the former member for Cabramatta. He is no longer with us. On behalf of all members of the Staysafe committee, I am pleased to see the legislation pass through the House. I am sure that if there is another place where we all go, John Newman is looking down on us very pleased to see the legislation pass through the Chamber tonight.

Mr SHEDDEN (Bankstown) [7.19]: As a member of the Staysafe committee, I have great pleasure in speaking to these bills, which are a legislative tribute to the late John Newman, the former member for Cabramatta. The bills results from his private member's statement in which he called for a review of criminal offences when driving in New South Wales, particularly the adequacy of the offence of culpable driving under section 52A of the Crimes Act. This bill replaces the offence of culpable driving with four offences: dangerous driving occasioning death, aggravated dangerous driving occasioning death, dangerous driving occasioning grievous bodily harm, and aggravated dangerous driving occasioning grievous bodily harm.

The community has been concerned for a long time about whether the penalty structure for the offence of culpable driving is adequate and whether policies and practices relating to the personal and social trauma arising from involvement in road accidents are sufficient. This concern has been obvious following the recent deaths of Benjamin Cox and Daniel Obeid. Without speaking about the technical side of the bill, I am delighted that so far the bill has found great acceptance by both Houses of this Parliament. I put on record my recognition of the great work of the Staysafe secretariat, particularly Mr Ian Faulks, the Director of Staysafe, for his preparation of the Staysafe 25 report, which has received wide acceptance. I support the bill.

Mr MILLS (Wallsend) [7.20]: In the condolence motion related to the late John Newman I suggested to the Premier and to honourable members of both Houses that if we wanted a legislative memorial to John Newman we should enact the essential recommendations of the Staysafe 25 report in this session. I thank my own party and the Government for enabling this legislation to be dealt with as non-contentious legislation. It can now be dealt with before the end of the session as a memorial to the late John Newman. The package of measures to deal with dangerous driving causing injury or death will become law in New South Wales without any further delay, having been passed in the upper House some time ago. This is our tribute to our murdered colleague John Newman. We acknowledge his contribution and acknowledge the fact that he originally introduced the issue in this House.

A number of amendments to the original bill were carried in the upper House. The first was an Australian Democrats amendment which altered schedule 1 to add the word "include" to subsection 52A(5), so that the list of six types of impact was not exclusive but allowed for other types of impact that are not specifically mentioned in the bill.

The Government moved an amendment to add to new section 52A(6)(a) the words "or causing another vehicle to overturn or leave a road". That amendment referred to a vehicle causing an impact between other vehicles. A classic example would be a person driving on the wrong side of the road, and forcing another vehicle off the road. The offender may not be involved in an impact with the person who is killed. Another amendment by the Australian Democrats added the words, "the time of the impact"

to new section 52AA(3)(b). I received a letter dated 22 November from the New South Wales Council for Civil Liberties, signed by John Marsden. That letter states:

> It seems that the legislation seeks to incorporate a desire for punishment by enormously increasing the penalties available without reference to the overall criminality that is involved in the relevant offences.

As a member of the Staysafe committee I have some news for the Council for Civil Liberties, whose views I normally take into careful consideration. It could be that the council's view of criminality in regard to dangerous and unlawful driving causing injury or death is 20 years out of date. I reject its argument in this case because in recent years the community has adopted an attitude different from that reflected in the letter from the Council for Civil Liberties. People must be more responsible. Dangerous driving is a criminal activity. Road crashes are not just accidents, as they were called 10 years ago. With those views, I support the bill.

Mr ANDERSON (Liverpool) [7.23]: I support the legislation for a number of reasons. In my years as a police prosecutor I prosecuted countless culpable drivers. It is a tragedy that even if the Parliament passes this necessary legislation tonight - which, in addition to being a tribute to my former friend and colleague John Newman, is a tribute to the Staysafe committee - the final decision will lie with the prosecutorial authority of this State. In recent years they have not filled me with great confidence.

One afternoon in 1992 at Crowdy Head a man and his two sons were riding pushbikes down a country road. The father of the boys was riding behind them. The boys were instructed by their father that if a car came from behind he would ring his bell and they were to ride in single file. This they did. However, a young female driver ran over the father and killed him, then hit the two boys and injured them - apparently because the sun was in her eyes. She drove on for several hundred yards, drove back to have a look, did not stop to render assistance, and went home. She was ultimately convicted of negligent driving and failing to stop after an accident, and was fined and lost her licence. This is not good enough.

If a charge of culpable driving could not be established, it was reduced to negligent driving. That is not acceptable - not on the issue of punishment or revenge but because justice is not served. For a number of years the law has been strong on the issue of whether the jury should decide whether the facts constitute culpable driving. I abhor the practice of prosecutorial authorities assuming that juries will not convict on this charge, because they will, and they should be given the opportunity to do so. I do not believe that recent authority has wiped out the law in Hain's case or the English case of Evans, which stated that momentary inattention was not a defence to these sorts of charges.

As all honourable members would know, the offence of culpable driving was introduced because of a reluctance on the part of juries to convict for manslaughter. Over the years people have not been appropriately dealt with in cases involving death and grievous bodily harm. I would ask that when the legislation is carried these matters be left to the jury, because the 12 good men and women true will make the right decision if all the evidence is placed before them. It is no wonder people do not have faith, when people such as the late Mr Green and his boys are killed or injured, and when people driving at excessive speeds on the wrong side of the road kill others in a head-on accident and are given minimal penalties after being convicted of minor charges.

I hope that as a consequence of the work of the Staysafe committee, which should be applauded, the bill will have some impact and people will think before they overtake, and will pay more attention to what they are doing. Then, perhaps, the road toll will be further reduced and the suffering will end. There is nothing police officers hate more - and I say this from personal experience - than delivering death messages arising from horrific motor accidents; than having to go to the morgue; than assisting ambulance officers and rescuers pull people out of cars because some fool did not pay attention or took an unnecessary risk.

It is bad enough when negligent drivers kill themselves or their loved ones, but when they kill somebody else's loved ones they deserve to be appropriately punished. With this legislation perhaps that will occur and, more importantly, there will be some encouragement to people to understand that they are driving a tonne or more of lethal machinery and that they should drive not only for themselves but for the rest of the community. I commend the Staysafe committee for its report.

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [7.28], in reply: I thank all honourable members for their support for the bill. As the honourable member for Liverpool has said, we are all anxious to decrease the road toll in this State. I understand that the concerns raised by the honourable member for Liverpool, about which he feels very deeply, were discussed with the honourable member for Wakehurst, the chairman of the Staysafe committee. The honourable member for Wakehurst said that the sort of incidents to which the honourable member for Liverpool referred were the reason the Staysafe Committee took this matter so seriously and made the recommendations contained in the report.

The Government supports the view of the Staysafe committee. It takes the matter seriously and believes

that the bill will hopefully go some way towards addressing the concerns raised by the honourable member for Liverpool. The matters raised by him should also be put into the context of ensuring that people understand that they have to be responsible for their actions when they drive a car. I refer to the comments made by the honourable member for Wallsend in relation to the letter from the Council for Civil Liberties. The Council for Civil Liberties has failed to take into account the fact that

the community views this problem seriously and wants the Government to deal with it. The Government is grateful for the support of honourable members from both sides of the House. I commend the bill to the House.

Motion agreed to.

Bills read a second time and passed through remaining stages.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (No. 2)

Second Reading

Debate resumed from 16 November.

Mr WHELAN (Ashfield) [7.31]: The Statute Law (Miscellaneous Provisions) Bill (No. 2),deals with minor matters, repeals and alterations. A quick perusal - I emphasise quick - of the bill does not reveal anything of great substance or anything which could be politically contentious. Many of the legal amendments relate to minor changes which the Opposition supports. I just hope that the Attorney General has not included a sneaky little provision that will bother us in the future.

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [7.32], in reply: The procedure of amending legislation by way of such bills is well tried. It is up to honourable members to review the provisions. The honourable member for Coogee, who is most persistent in reviewing such bills, has not said to me or the honourable member for Ashfield that there is a problem, and obviously there is not a problem with the bill. I thank the honourable member for Ashfield for his contribution.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PROFESSIONAL STANDARDS BILL

Second Reading

Debate resumed from 22 September.

Mr WHELAN (Ashfield) [7.33]: This important bill will affect the lives of the people of New South Wales. I hope that it will improve professional standards and not prevent people from receiving the proceeds of damages awards against those who are professionally negligent. Without such legislation professionals could manipulate a situation so that there is no money in the till to pay damages awarded by a court. A large firm of accountants could off-load its assets to a variety of other companies and an award in respect of personal liability would have nil value. Such protections are not being set up right around the country but some major accounting firms and undoubtedly large legal firms will adopt the device.

The bill anticipates problems caused by the use of this procedure. The bill provides that a group that represents the interests of persons who are members of the same occupational group and limited principally to members of that occupational group shall prepare a scheme and submit it for publication and public comment. I

expect that in future a member of the public aggrieved by the actions of an accountant or a lawyer may claim that both parties acted in concert and were guilty of taking action which had the effect of curtailing the rights of persons affected to claim unlimited damages in court. The Opposition agrees with the general thrust of the bill and looks forward to the review referred to on page 55. The Opposition supports the bill.

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [7.37], in reply: I thank the honourable member for Ashfield for his support of the bill. As a local member I know that the bill has excited much interest among the professions, which are very keen to see the bill passed. I appreciate the support of the Opposition and commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CRIMES (HOME INVASION) AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

Mr WHELAN (Ashfield) [7.38]: I am delighted to speak on the Crimes (Home Invasion) Amendment Bill, the objects of which are to create an additional offence and to increase penalties for crimes involving violent activity. Home invasion is a major issue in the community which cannot be ignored. The related bill, the Crimes (Threats and Stalking) Amendment Bill, also deals with an issue causing community concern. I am pleased that the Government at last has agreed that stalking warrants the Government's attention. Despite having vehemently opposing the stalking legislation and the domestic violence legislation - it did not recognise that stalking was a real problem in the community - by acknowledging the presence of stalking in the Crimes (Threats and Stalking) Bill, the Government at last has shown that it realises that the community needs protection.

Leaving aside that criticism, the bill provides for an aggravated offence. Undoubtedly, this matter was given credence by the Government because of the strong stand taken by the Leader of the Opposition on home invasion. Indeed, the member for Cabramatta, in her maiden speech, indicated that she was fortunate to have a leader who responded quickly to the views of the community on home invasion. I congratulate the member for Cabramatta on her maiden speech; it was great. Obviously, it is one of the many great speeches that she will make in this House. I understand that I must cease speaking on this issue, without prejudicing my right to talk about the bill later, to enable an important bill relating to energy to proceed through the Chamber.

Debate adjourned on motion by Mr West.

Page 6166

ENERGY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second Reading

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [7.41]: I move:

> That this bill be now read a second time.

This bill has been conveyed to the Legislative Assembly and has been passed through the Legislative Council without amendment. Therefore, I have conveyed to the honourable member for East Hills and the honourable member for Wyong copies of the second reading speech that was delivered in the other House, and copies of the

bill.

Mr ROGAN (East Hills) [7.42]: As the Minister indicated, this bill has come from the other House. As indicated by my colleague in the other House, Dr Meredith Burgmann, the Opposition will not oppose the bill. Indeed, the Opposition supports a number of its important measures. I turn to what is referred to in the Minister's second reading speech as the most important amendment: the provision to extend to pensioners who are long-term residents of caravan parks a rebate for electricity. This issue will be dealt with at some length by my colleague the honourable member for Wyong, who has a long abiding interest in this matter.

The legislation does not go as far as one would like in providing separate metering for each caravan park owner and/or mobile home owner, nevertheless it provides a rebate system for pensioners that will allow them to obtain a concession on their electricity accounts. I welcome that. I hope that the amendment to the Electricity Act will pressure caravan park owners to metre separately each resident in their park - and, indeed, mobile home owners. The rebate provision is most welcome by the Opposition.

I intend to address a few of the clauses and some of the main proposals in the bill. The bill is what one might call an omnibus bill. It is a little unusual in that it will amend a number of Acts. I have no problem with that. Anything that streamlines the procedures of the House, so that we can go about our business as legislators and make necessary changes to legislation, should be welcomed. The intent of the legislation is most welcomed. The representation on the board of the electricity council has been changed. The Minister in the other place referred to the fact that we will now have a further electricity authority, the electricity transmission authority. Some provision will need to be made to accommodate that body on the electricity council.

The bill provides for the Minister to appoint virtually all the members of that body. At present, the electricity council comprises representatives of various energy bodies, distributors and other bodies in the State. The bill specifies that the nominees to the Electricity Association of New South Wales and the Labor Council of New South Wales will be members of the electricity council. When making appointments the Minister will be required to have regard to the interests of the consumers. I am not sure who the Minister will appoint as a representative of the consumers.

The amendment that provides for third-party access to electricity distribution networks is an integral part of the introduction of a competitive electricity market into this State. Without this change it would not be possible to have a fully operational competitive market. The Opposition supports the concept of a competitive market and a national electricity grid, and the part of the legislation that deals with that. We recognise that it is important that the legislation be approved by Parliament to enable the competitive market to be up and running in time for the commencement date provided for in the schedule, which will be in July next year. In that respect, the Opposition gives its support to the legislation.

The amendment to the Electricity Act to call for expressions of interest as the first step in the tendering process, has been brought about to reflect recent changes to the Local Government Act. That change will enable the electricity distributor to ensure that expressions of interest are the first step in the tendering process. Tenders are to be invited from selected persons who have expressed an interest in the subject matter of the tender. The Opposition has no problem with that and supports the amendment. It is interesting to note that the Electoral Commissioner will be the returning officer for the election of board members to electricity distributor boards. I should have thought that such a provision was unnecessary as one would expect that the Electoral Commissioner would be called upon to carry out this function.

Nevertheless, it has been a grey area and the present legislation does not contain that requirement. One could not think of a more appropriate and proper way of conducting elections for these important positions than charging the Electoral Commissioner with that responsibility. The amendment to change the name of the Local Government Electricity Association of New South Wales to, simply, the Electricity Association of New South Wales is interesting. The change emanates from the industry itself, which consists basically of representatives from local government. One can only assume that, to their credit, they see this as a changing industry. In line with that change, the association has opted to change its name. That is an appropriate decision.

I now deal with the amendments to the Gas Act and the Pipelines Act. These changes reflect Federal changes in relation to the sale of the Moomba-Sydney natural gas pipeline and the fact that the Federal body, the Pipeline Authority, as a result will cease to exist. Therefore, there is a need to have some form of licensing procedure to cover gas pipelines. It was to be expected that legislation in this House would be amended to reflect that, as is appropriate. The gas pipeline being constructed by ICI is also to be covered by legislation in New South Wales. I have spoken with representatives of ICI, the company constructing the pipeline to convey ethane from South Australia, about this amendment.

Page 6167

As this legislation was not on the business paper to be dealt with, I was wondering how legislative changes would be made before the House adjourned for the Christmas recess - probably until the next election. It was my understanding that in order for ICI to be able to build this pipeline these amendments had to be passed. Again, the Opposition recognises the necessity to have the changes agreed to, and in that regard the Opposition gives its support for the proposals. The *Australian Financial Review* of 30 November stated:

> The National Native Title Tribunal has made a landmark decision which will prevent Aboriginal land claims from jeopardising the construction of the $300 million Moomba to Sydney ethane pipeline.

My reason for mentioning that is that it has been suggested that the Mabo decision, which is reflected in Federal legislation, may jeopardise many such projects. It certainly has not jeopardised this major $300 million gas pipeline project from South Australia to New South Wales. For the reasons I have outlined the Opposition supports the bill.

Mr CRITTENDEN (Wyong) [7.56]: I support the Energy Legislation (Miscellaneous Amendments) Bill. I intend to address the aspect of the bill that relates to the rebate for pensioners who are not directly supplied by electricity authorities. It is amazing that the Government has been galvanised into action on a whole series of fronts to protect the residents of manufactured home estates and caravan parks after the honourable member for Heffron, on behalf of the Australian Labor Party, introduced separate legislation to protect the rights of residents of mobile home parks.

A regulation was introduced to ban premiums or commissions on the sale of mobile homes. The Government has managed to bring forward an amending bill to the Residential Tenancies Act and now the Government is prepared to give pensioner rebates to those who are not directly supplied by an electricity authority. I concur in that decision. I am concerned that the pensioner rebate will not flow on to those who are granted this benefit. We have to be sure that the pensioners will get their rebate. The goodwill expressed by this legislation must be taken at face value. However, I am reminded of the first home purchase scheme that was in operation a few years ago. It was funded by the Federal Government. The scheme, in effect, provided for a windfall to any builder who realised that a client was a beneficiary under that scheme.

I am concerned that people who will be entitled to this rebate will not get it. The park proprietor may simply increase the electricity bills by the amount of the rebate. so that the pensioners concerned will not be any better off financially. Nothing in the legislation will come to grips with the problem. Nothing will overcome it. We will have to remain vigilant about this issue. The history of electricity

payments by people living in caravans in mobile home parks is a tortured one. In the past park proprietors who did the wrong thing might have been slapped on the wrist, but no other effective action was taken. The Government should bear in mind that it has a responsibility and a duty to ensure that those who are entitled to the rebate under the legislation receive it.

A way of achieving that end is to work out exactly what people pay at present for electricity. I am reminded that before I was elected to Parliament in 1991, a person in my area asked me, on three consecutive occasions after having received an electricity bill from the proprietor of the park in which he lived, to read the electricity meter that was attached to his mobile home. There was no rhyme or reason to the amount charged by the park proprietor. There was no way mathematically or logically that the amounts charged by the proprietor on those three occasions could have been based on the meter reading. The accounts did not add up. I hope this anomaly will be addressed.

The best goodwill in the world will not resolve this issue if we do not come to grips with the inherent problem of people being customers of the park proprietor and therefore only an indirect customer of the supply authority, rather than their being billed directly by electricity distribution authorities. It is an issue about which many people have been concerned for a number of years. I am hopeful that pensioners will receive their rebate, but I am concerned that the legislation will be a toothless tiger unless we can protect the rights of those who live in caravan parks from unscrupulous park proprietors.

Mr WEST (Orange - Minister for Police, and Minister for Emergency Services) [8.02], in reply: I thank the honourable member for East Hills and the honourable member for Wyong for their consideration of the details of the bill. It is important and significant legislation, as has been acknowledged by both honourable members. As its description implies, it is a miscellaneous bill. It contains many good aspects which the Government has endeavoured to push by initiatives; other initiatives that have been identified have been included in response to industry requests.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SPECIAL ADJOURNMENT

Motion by Mr West agreed to:

That this House at its rising this day do adjourn until Friday, 2 December, at 9.00 a.m. until 7.00 p.m. with the routine of business for sittings days other than the last sitting day of the week.

House adjourned at 8.05 p.m.