

LEGISLATIVE ASSEMBLY

Thursday, 20 November 1997

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

Mr Speaker offered the Prayer.

STOCK DISEASES AMENDMENT BILL

Second Reading

Debate resumed from 12 November.

Mr RIXON (Lismore) [10.00 a.m.]: The purpose of the bill is to amend the Stock Diseases Act 1923 to provide for a minor change in the electoral districts of the Board of Tick Control because of changes that have been made to the tick quarantine area and to amend the Stock Diseases (Nominations and Elections) Regulation 1995 to change the eligibility criteria for election as a member of the Board of Tick Control and to vote in an election for such a member. The Stock Diseases Act 1923 established the Board of Tick Control, whose main function is to furnish recommendations to the Minister for Agriculture on matters relating to the control and eradication of cattle tick.

The Act requires that six members of the board are to be stock owners from within the current cattle tick declared quarantine areas. In October 1996 the quarantine area was 10,000 square kilometres in the north-east corner of the State, covering the Richmond, upper Clarence, Brunswick and Tweed valleys. Since that date, however, no quarantine areas have been declared. Because of changed control methods, it was decided to alter the status of the land to that of a cattle tick protected area under section 11A of the Act and reduce the protected area initially to 7,000 square kilometres. The area has subsequently been reduced to 3,150 kilometres. The notification prohibits the entry of cattle and other animals known to be carriers of cattle tick unless certain precautionary steps have been taken.

Although the southern part of the original quarantine area is now effectively released from quarantine, producers still have a vested interest in the management of cattle tick and are concerned about tick control. The number of properties affected by cattle tick increased from 10 in 1995 to 115 in the 1996-97 season. The current wording of section 5, which requires that members of the board be stock owners from within the tick quarantine area, prevents the election of board members because there are no persons to whom those qualifications now apply. It is intended to amend the Act to formulate new electoral districts that will align with the electoral boundaries of the former tick quarantine area. Owners of cattle kept on land within one of the existing electoral districts will be qualified to vote and to stand as candidates for election, thus ensuring that no owners previously qualified to stand for election and to vote will be disfranchised.

This measure should not be controversial. Its introduction in the spring session of Parliament will ensure that the amendments are in place in time for the preparation of the election, which must take place by early February 1998. It is extremely important that the electoral districts drawn up for future elections include, as accurately as possible, the September 1996 tick quarantine area. Property owners within that tick quarantine area should be eligible to vote. Though the cattle tick protection area has shrunk from the 10,000 square kilometres of 1996 to 3,150 square kilometres, people in the former tick quarantine area retain a close interest in all measures and management procedures to control cattle tick because of their concern about the 1996-97 tick

outbreak that affected 115 properties.

Co-operation between the Department of Agriculture and farmers, which is currently at a very high level, is an extremely important component of the modern control program and has been achieved only because of good communication channels. Farmers in the area and Peter McGregor, Chairman of the Board of Tick Control, and his staff are to be congratulated on the way in which they are working together to make sure that all tick infestations are found and dealt with. It is extremely important to maintain this co-operation. Farmers should be able to feel that they have an opportunity to have input and be represented on the Board of Tick Control. They are following with interest the number and distribution of tick outbreaks, which are not confined by lines drawn on maps. Honourable members should not forget that without the active support of the farmers in the old tick quarantine area cattle tick

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could spread south along the coast to Victoria in any year and west over the range depending on the seasons, with disastrous results to the cattle industry in eastern Australia. North coast farmers have prevented huge damage to the cattle industry in eastern Australia. It is proper that the Minister has taken this action to prepare for the election of board members, which should be held by February 1998. The Opposition supports the bill.

Mr NEILLY (Cessnock) [10.07 a.m.]: I support the proposed amendments to the Stock Diseases Act. Though the cattle tick quarantine areas are essentially on the north coast, cattle tick is a major concern to beef producers in New South Wales and Victoria. When the question of tick control arises, I inevitably receive comments from beef producers and stock and station agents concerned about their future. If adequate controls are not put in place the beef industry will not be viable. Given what has happened in Macquarie Street over the last couple of years with the Carr Government and all the ticks we have had here, perhaps Macquarie Street should be quarantined. The purpose of the bill, which is not controversial and is supported by both sides of the Chamber, is to amend the Act to provide for minor changes in the electoral districts of the Board of Tick Control to correspond with changes to the tick quarantine area. It is also designed to amend the Stock Diseases (Nominations and Elections) Regulation 1995 to change the eligibility criteria for election as a member of the Board of Tick Control and to vote in an election for such a member.

Section 5 of the Stock Diseases Act provides for the existence of the Board of Tick Control, whose main function is to furnish recommendations to the Minister for Agriculture on matters relating to the control and eradication of cattle tick. The Act requires that six members of the board are to be stock owners from within the current cattle tick declared quarantine areas as they would be more aware of the problems being experienced by the cattle industry. Producers in the former tick quarantine area, which is no longer under quarantine, still have a vested interest in the management of the cattle tick program. The legislation is of some urgency because the current wording of section 5 requires members of the board to be stock owners from within the tick quarantine area. As there are no persons to whom those qualifications apply election to the board cannot take place.

It is intended that the Act be amended so that the new electoral districts to be formulated align with the electoral boundaries of the former tick quarantine area. Persons will be qualified to vote and to stand as candidates for election if they are owners of cattle kept on land within one of the existing electoral districts. This will ensure that no owners previously qualified to stand for election and to vote will be disfranchised. The Government is committed to the eradication of the endemic cattle tick from New South Wales by the year 2000 and to protecting that status in the future. I doubt that it will be possible to accomplish that difficult task. However, the Government should strive to achieve that goal, which the Board of Tick Control and the Cattle Tick Advisory Committee support. The repeal of the tick quarantine area on the New South Wales north coast was recommended on the basis that since October 1996 it has achieved a success rate in eradicating cattle tick infestations of 99 per cent.

The tick quarantine area used to span 10,000 square kilometres on the north coast of this State. Despite current minimum tick infestation there is always the inherent danger of a rapid spread of cattle tick from Queensland if adequate precautionary measures are not in place. An area of 7,000 square kilometres has been declared as a cattle tick protected area. The Cattle Tick Advisory Committee has recommended to the Minister for Agriculture certain changes to the current cattle tick control program to advance eradication of cattle tick and

to free up areas in which constant regulatory activity is no longer warranted. The first recommendation of the Cattle Tick Advisory Committee is that further areas be released from the cattle tick protected area, which will effectively reduce the area under regulatory control to 3,150 square kilometres.

The Cattle Tick Advisory Committee proposes that a number of strategically placed cattle clearing dips be located on the southern boundary of this new area to assist the movement of livestock out of the area. The Minister for Agriculture supports this strategy and has noted the enhanced surveillance and regulatory and education packages. It is proposed that the eradication of cattle tick from New South Wales by the year 2000 will be achieved through a strategy of action that includes surveillance, including targeted surveillance, based on risk analysis; the creation of a cattle tick flying squad comprising a small, highly experienced group of inspectors from the Department of Agriculture to investigate suspect activities associated with current infestations and to selectively monitor cattle sales in tick risk areas; improved surveillance at sales and abattoirs; an education program targeting Department of Agriculture staff, producers, pony clubs, jockey clubs, agents, stock transporters, schools and the community; incentives for early

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notification of cattle tick infestations; and a media campaign to highlight the legal requirement to report infestations of cattle tick.

I generally regard the beef industry as responsible. I know what beef producers in this State have at stake. The beef industry must strictly comply with the provisions in this legislation. However, the same level of concern is not always shown by pony club members and owner-trainers of thoroughbred horses. I suspect that tick outbreaks will occur in future in areas where persons handle their livestock irresponsibly. I commend the legislation.

Mr BECK (Murwillumbah) [10.14 a.m.]: Like other members who have spoken in debate, I support the Stock Diseases Amendment Bill, the object of which is:

... to change the provisions of the Stock Diseases Act 1923 concerning eligibility for election of members of the Board of Tick Control, and the qualifications for voting in an election for such a member, so that any person who is the owner of cattle kept in an electoral district can run for, or vote in, such an election.

Over the past 74 years in excess of 1,600 compulsory dip yards have been used in places as far south, and even further south, than Grafton. Governments of all political persuasions have been concerned about and have worked conscientiously to eradicate the cattle tick problem. I wish the Minister for Agriculture and future Ministers well in their attempts to achieve this goal by the year 2000. As a cattle producer, I have been caught up in that important and compulsory dipping zone. I can see the Queensland border from my kitchen window - the border which this Government is monitoring to ensure that cattle tick are not brought into New South Wales - and I have been concerned about past cattle tick outbreaks.

The honourable member for Cessnock referred earlier to irresponsible people who bring cattle across the border. We must always maintain our border crossings to prevent outbreaks of cattle tick as a result of people sneaking cattle across the border. Any such outbreak would jeopardise the six million head of cattle in this State which are protected by the buffer zone in the northern corner of the State. Other speakers in the debate on this legislation mentioned that cattle tick outbreaks have occurred as far south as Victoria, so many more than six million head of cattle could be affected. Border fences must always be maintained. The population in the Piggabeen Valley in the Tweed area is increasing. The honourable member for Cessnock referred to pony club horses, which are not usually stabled and groomed. If border fences are not maintained a cattle tick outbreak from pony club activity in those areas is a possibility. People in the compulsory zone have done a magnificent job. Over the last 74 years they have worked hard mustering their cattle and taking them to dip yards.

This legislation will change the provisions relating to the compulsory zone and the provisions relating to the election of members to the Board of Tick Control. These legislative changes are necessary to enable the election of members from within this compulsory zone. This legislation, which is supported by all honourable members, should have a speedy passage through this House to enable the election of board members with a

knowledge of the problems raised in debate today. As I said earlier, the bill provides that six members of the board are to come from within the declared quarantine area. The election of those members will take place in February 1998. I reiterate the points that I raised earlier. Border crossing surveillance is necessary to prevent cattle tick outbreaks. Quarantining of cattle causes hardship to farmers in this day and age when prices are down to their lowest levels in years. Cattle producers have to have their cattle inspected; they have restrictions on the sale of their cattle and cattle tick can badly damage hides, which are a useful by-product. I hope that this legislation, which I support, results in the eradication of cattle tick by the year 2000.

Mr AMERY (Mount Druitt - Minister for Agriculture) [10.19 a.m.], in reply: I thank the honourable member for Lismore, who led for the Opposition, the honourable member for Cessnock, and the honourable member for Murwillumbah for supporting not only the bill but also the program to manage, and hopefully eradicate, cattle tick by 2000. The honourable member for Lismore referred to details of the legislation including the reduction in the quarantine area and the need to change the rules so that people who previously resided in a quarantine area can now seek election as a member of the Board of Tick Control. I support the congratulations that the honourable member for Lismore extended to Peter McGregor and his team on their work on the north coast. I add my congratulations to Dr Dick Jane of my department, who keeps me briefed on matters relating to the cattle tick program.

The honourable member for Lismore also said that the support of the farmers is crucial. I am pleased that the people from my department involved in the cattle tick program have received strong support from the farming community. The honourable member for Cessnock voiced his interest

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in the north coast and the cattle tick program and, together with the honourable member for Lismore and the honourable member for Murwillumbah, highlighted the fact that whilst the tick problem is a north coast issue, the whole of the New South Wales beef industry would be concerned if there were a breakdown in the control program. I assure the members who contributed to the debate that the Government supports the cattle industry and will ensure that it puts all available resources into the eradication program.

The honourable members for the electorates of Cessnock and Murwillumbah also said that while the cattle industry has been supportive and responsible, some individuals - particularly horse owners - have brought cattle tick into the State. Honourable members may recall that a couple of years ago I said that cattle tick detected in the Harden area, in the south-west, had been brought in by horses crossing the Queensland border. The Government is aware that it must continue to monitor that situation. The Government hopes that the education program for livestock owners, particularly horse owners and workers in horse-related industries, will make them aware of the potential danger of cattle tick to the cattle industry should they act less responsibly than people in the cattle industry.

The honourable member for Cessnock referred to the flying squad monitoring system and educational program that the Government will set up. The honourable member for Murwillumbah put an historical perspective to the debate when he said that this bill will amend legislation dating from 1923 and that there have been 74 years of compulsory dipping. It is fair to say there are concerns about changes to the infrastructure of a system with such a long history that has employed generations of employees. Governments, coalition or Labor, always had difficulty in introducing changes to the cattle tick program because its long history has proved it to work well. However, chemical residues in animals, contaminants in soil, the contaminated north coast land storage facility - about which the honourable member for Murwillumbah asked me a question recently - and claims for compensation by property owners show how time has moved on and how the different pressures placed upon this program have resulted in changes throughout the system. In response to the honourable member for Murwillumbah, who supports the program but raised concerns about its future and the number of infestations, I advise that an unusually high number of cattle tick infestations were detected in the 1996-97 cattle herd examinations conducted within the cattle tick protected area. Some stock owners have expressed concern - as echoed by honourable members - that the Government is decreasing its commitment to cattle tick control, based on the number of outbreaks.

New South Wales Agriculture has moved away from a blanket control program of mandatory cattle tick

dipping to a co-operative program with stock owners based on a search and destroy policy. The unusually large number of cattle tick infestations detected in the 1996-97 examination were found in the examinations that commenced in December 1996. Investigations have revealed that many of these infestations are linked by livestock movements. In most cases very few cattle ticks were found, indicating that they had been recently introduced. Approximately half of the infested properties have completed or are close to completing treatment programs to eradicate cattle ticks. Other properties are to commence an eradication program in the near future - I understand some are under way - following a break from treatment through winter. The winter break is adopted on animal welfare grounds. I know that a number of farmers have approached the honourable member for Murwillumbah about those outbreaks, but they occurred because of the move away from the compulsory dipping program to the search and destroy method. The bill will facilitate the election of people who were formerly in a quarantine area. When the original legislation was drawn up in 1923 there was an expectation that the quarantine areas and the criteria for election would remain in place forever. Frankly, it nearly did.

I am reminded that the honourable member for Murwillumbah referred to border crossings. Although the high staff level of 750 in the 1950s was reduced to the low level of 220 during the 1990s, the tick program has taken advantage of the success of past programs. Improved knowledge and technology have allowed a more streamlined and focused management structure to be implemented with the objective of eradication of cattle tick from New South Wales by 2000. Controls on the Queensland border are maintained to regulate the movement of stock from Queensland to New South Wales and to ensure that only stock which comply with requirements are allowed entry to New South Wales, thus minimising the risk of tick introductions from Queensland.

I assure the honourable member for Murwillumbah that I am aware of his concern about the number of personnel on the Queensland border. Following my approval, New South Wales Agriculture, through its cattle tick program, will implement the policy for the subsequent 12 months. The program is led by a program leader of cattle

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tick control with a staff including permanent and casual seasonal staff of 150. Two professional officers, who are veterinarians, two operations managers and three section managers have control over these staff. If the honourable member for Murwillumbah considers that changes in staffing levels on the Queensland border may in any way jeopardise this program I assure him that that is not the Government's intention. If he feels that those figures have been downgraded, I ask him to report to me and I will ensure that the matter receives immediate attention. The three members who contributed to the debate made supportive contributions, and I thank them.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PUBLIC HEALTH AMENDMENT (TOBACCO ADVERTISING) BILL

Second Reading

Debate resumed from 12 November.

Mrs SKINNER (North Shore) [10.28 a.m.]: The purpose of this bill is to re-enact, with modifications, the provisions of the Tobacco Advertising Prohibition Act 1991 as amendments to part 6, tobacco products, of the Public Health Act 1991. The modifications are based on the Department of Health review of the coalition's 1991 legislation. As the Minister pointed out in his second reading speech, that legislation has resulted in the elimination of outdoor advertising of tobacco products, tobacco advertisements on the back of taxis and on buses and tobacco advertisements in publications printed and published in New South Wales.

It has also led to a reduction, although not an elimination, of tobacco sponsorship of sporting and cultural events. I cannot resist a dig at the Minister, who approved the tobacco sponsorship for Bathurst 1000 and the 1995 cricket series despite his very loud claims that it would never happen when he became Minister for Health. The review conducted by the Department of Health found that the trouble now is that the elimination of outdoor

advertising has led to an increased amount of in-store advertising. That has been confirmed in comments made to me by bodies such as Action on Smoking and Health, ASH. The bill addresses this issue in a number of ways. It inserts a new section in the Act which not only re-enacts the substance of the repealed Act but also provides five modifications.

Those modifications include that advertising prohibition will not apply to books or other printed material published or printed before the commencement of the repealed Act. Also, the provision of the repealed Act that allowed an advertisement to be displayed on a package containing a tobacco product is restricted, in that advertisements now must meet requirements prescribed by regulation. That is the only area with which the coalition has difficulty. Industry representatives, particularly from the retail industry, have advised that they have not been consulted in relation to these provisions. They are extremely concerned that they do not know what the regulations will provide. I give that information to the Minister and seek his advice about the extent of consultation that will occur with the retail industry, small businesses, including businesses which rely entirely upon the sale of tobacco products for their livelihood, and businesses such as service stations.

Many service station owners have written directly to me about their concerns. Also included in the modifications to the bill are provisions that extend the current exemption on advertisements that appear incidentally in film and videotape to live stage performances. I am pleased that the bill re-enacts large parts of the previous legislation, particularly the banning of competitions where the supply to a tobacco retailer by a company or manufacturer of any product would benefit selling more tobacco products, and the banning of the supply of free samples. Also, I agree with the inclusion of the right and proper provision that allows placement of tobacco vending machines in registered clubs but restricts their placement in licensed premises to areas where unaccompanied minors are not allowed.

The coalition is pleased to support the legislation, and I believe that the tobacco industry should also support it. A submission provided to me some time ago complained about the increase in the issuing of summonses about point-of-sale material because of inconsistent determinations and conflicting guidelines about what constitutes tobacco advertisements. The amendments clarify the guidelines. However, I make the proviso that there needs to be consultation with the industry so that people know what constitutes an advertisement in the display of products in cabinets and the stacking of products. The practice of stacking products together to make a composite picture, a jigsaw puzzle, which clearly becomes an advertisement needs to be addressed. Retailers have the right to know exactly what is allowed. On that basis I support the legislation.

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Dr MACDONALD (Manly) [10.34 a.m.]: I support the Public Health Amendment (Tobacco Advertising) Bill, which will continue the battle that is part of the war against tobacco. But there is still much work to be done. A paper released in 1995 by Winstanley, Woodward and Walker called "Tobacco in Australia, Facts and Issues" talks about the road ahead and the work to be done. It makes reference to the World Health Organisation and the International Union Against Cancer and talks about achieving an effective reduction in tobacco consumption by the implementation of a number of measures: additional health warnings on tobacco packets, increased taxation, restrictions on smoking opportunities, support for the rights of non-smokers, education programs, the cessation of all forms of tobacco advertising and promotion, and the banning of vending machines.

The paper refers also to the key objectives of the International Union Against Cancer, which include an increase in the price of cigarettes - a particularly important objective because children tend to be very price sensitive. Another objective is to impose restrictions on smoking in public places. I add another that has come through clearly as an important measure - to classify nicotine as a drug. But lined up against us in the war against tobacco is the insidious tobacco industry. The orchestrations by tobacco companies to encourage smoking, by advertising, promotional activities and lobbying, are designed to ensure that governments take minimal or no action that will lead to a reduction in consumption. The political leverage of the tobacco industry should not be underestimated. Its lobbying powers have been well documented in Australia and overseas.

That sets the scene for the contest in which the Minister has taken a particularly strong stand. The history of the Tobacco Advertising Prohibition Act goes back to 1991 when it was introduced by Reverend the Hon. F. J. Nile with the support of the Australian Labor Party in the upper House. The coalition refused to support the bill in 1991. It tried to tough it out but found that it was way behind community expectations. Despite the opposition of the coalition, the Tobacco Advertising Prohibition Act was enacted.

Ms Ficarra: It upset the sporting sponsorship.

Dr MACDONALD: It was before the time when the honourable member for Georges River was elected to Parliament. New South Wales is a leader in legislative action restricting tobacco advertising. But the Act has been abused and circumvented by the tobacco industry, and that has been apparent for some years. I received a letter dated April 1995 from Arthur Bester who lives in Dangar. He pointed out 2½ years ago how the Tobacco Advertising Prohibition Act has been circumvented. Among the comments he made was the following:

Ruthless tobacco interests have made a mockery of the Tobacco Advertising Prohibition Act. Driving a dagger into its heart. They, together with their sharpie lawyers, have exploited the "point of sale" and "livestock" provisions to a level where the Act's original intent is all but defeated.

Now, utilizing these exemptions, they have transformed every newsagent, gift shop and tobacconist into a massive promotional device for tobacco. These businesses are in every arcade, high street, mall and shopping centre throughout the community. Perfectly placed to indoctrinate the young and trusting into a lifetime of nicotine use. Perfectly placed to romanticize and normalize tobacco use whilst countering and trivializing the warnings of doctors, teachers and parents.

That is an example of the insidious tobacco industry. I have been disappointed with the delays in the introduction of amending legislation to the Act. For several years problems have been evident, as highlighted in Mr Bester's letter. In fact, the Minister for Health requested a second round of consultation, of which I am critical as it was unnecessary. The review of the Act as required under section 27 was tabled on 12 December 1995. At that time the Minister said:

Today I have tabled in the House a report of that review.

He went on to say:

The report has raised a number of recommendations to be considered by the Government in consultation with key bodies. This Government is committed to reducing the harmful effects of smoking and the high cost to personal health and the subsequent costs to the health care system.

The delay has been too long. It is almost two years since the review was tabled, and only now is amending legislation before the House. This delay has allowed huge expansion in point-of-sale advertising. That expansion results from two things: the exploitation of loopholes in the Tobacco Advertising Prohibition Act and little enforcement by the Department of Health. The Cancer Council was aware of this in February 1995. It wrote to Dr Rooney, Director of Disease Prevention at the Department of Health in North Sydney, specifically on breaches of the Tobacco Advertising Prohibition Act. It requested that legal action be taken against W. D. and H. O. Wills (Australia) Limited for distributing illegal advertisements and against retailers who continue to breach the Act. The letter said:

The advertisement and its use is in breach of the Tobacco Advertising Prohibition Act . . . on a number of grounds, and

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the absence of enforcement by the Health Department has resulted in the widespread distribution to retailer shops of hundreds of thousands of advertisements that are in breach of the Act.

The tobacco advertisement in question depicts the Benson and Hedges sponsorship of the World Series

Cricket. It is in full colour and consists of a blurred cricket bat and ball in the foreground with a perfectly focussed brand name in large print in the background. The image leaves no doubt that it is a tobacco advertisement for Benson and Hedges cigarettes.

... In relation to breaches on signage inside retailer shops, the advertisements frequently exceed the area limit of 2000 square cms, are of the mass produced illuminated type, can be viewed from a public place, do not include health warnings on the board, and are accompanied by giveaway gifts and parallel advertising such as placemats, clothes and cricket paraphernalia.

This was all brought to the attention of the Department of Health in February 1995. The letter concluded:

It is a matter of urgency that measures be taken to reduce the estimated 70,000 children that take up smoking each year in Australia. Enforcement of existing laws is one strategy that will reduce the number of breaches and consequently the number of children that are being induced by unacceptable and illegal tobacco advertising to both commence and continue smoking.

Dr Rooney's response in a letter dated 9 March 1995 was quite unsatisfactory. It seems to acknowledge that there are many breaches of the Act but that it is futile to proceed with prosecutions. He talked about lack of resources within the legal branch and with environmental health officers to pursue these matters. The Act has been made a sham because it has been circumvented by the all-insidious tobacco industry. Problems associated with smoking, particularly among children, are enormous. Smoking kills almost 20,000 Australians a year and remains the largest single preventable cause of sickness and premature death. It costs the community approximately \$10 billion a year.

Whilst the number of adults who smoke has declined over the past decade, the reported number of children aged between 12 and 16 years who smoke has increased since 1989, particularly among girls. Although the tobacco industry postulates that children commence smoking because of peer pressure and rebellious tendencies, the evidence is well established linking tobacco advertising with an increase in tobacco consumption. A recent study by the Cancer Council revealed that State governments reap \$60 a year in revenue from each under-age smoker, yet only 11¢ per under-age smoker is spent on anti-smoking campaigns.

The main forms of tobacco advertising are being slowly dented, but point-of-sale advertising, retail value-added promotions and sponsorship exemptions are now the three main advertising forms left to tobacco companies, which currently exploit those forms in their efforts to expand sales. Since retail tobacco licences are low in price, tobacco products are as ubiquitous as milk and bread and are promoted in tens of thousands of outlets. Indeed, it is time that the number of tobacco sale outlets was reduced. Newsagencies, supermarkets, corner stores, shopping centres and petrol stations are all used to normalise smoking as part of daily living. Value-added promotions are increasing rapidly. In the United States it is the fastest growing form of advertising expenditure by tobacco companies. With the phase-out of alternative forms of advertising, value-added promotions are expected to expand in Australia as they have in the United States.

The Benson and Hedges campaign featuring the Australian cricket series has blitzed New South Wales despite breaching the Act on many grounds, including being seen from a public place, exceeding the area limit of 2,000 square centimetres, and using mass-produced illuminated signs. That is an example of how the tobacco industry got round the provisions of the Act. The Act is not so much about prohibiting advertising as placing restrictions on existing size, location and appearance. The impact is not about phasing out tobacco promotion; it is about reshaping its appearance.

Environmental health officers complain that the Act is complicated, arduous and time consuming to enforce, guidelines are overly prescriptive and the promotions that take weeks to move are often quickly replaced by other offending promotions, thus requiring a repeat of the whole process ad infinitum. To make matters worse, tobacco manufacturers are adding to the confusion by supplying retailers with promotions based on loopholes in the Act, misinformation, and/or their own unchallenged interpretation of the Act. In 1995 the seriousness of the alleged breaches was exposed in surveys by the Manly Health Promotion Unit, which found

that 72 per cent of retailers displayed illegal advertising. I work closely with that group and am aware that it is alarmed at the extent of illegal advertising.

Understandably, retailers are confused by conflicting views of tobacco companies and health authorities. Compliance monitoring is labour intensive and of low priority, staffing levels for authorised officers are insufficient, and the guidelines demand time-consuming procedures in the lead-up to prosecution. As many breaches are yet to be tested in the courts, officers are finding enforcement a frustrating exercise. The availability

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of discount cigarettes through value-added promotions acts as an inducement for smokers to continue smoking and for young people to commence. For example, Alpine cigarettes are marketed to appeal to young girls, offering free diaries and trendy magazines.

In a direct appeal to young sports fans, Benson and Hedges gives away a calendar featuring cricket hero Shane Warne with two packets of Benson and Hedges cigarettes. Cigarette cartons and packets, that is, the livestock, are often combined in quantities to create prominent displays that can be viewed from a public place. The display of tobacco products should be restricted to a small section near the point of purchase, for sale purposes only and, frankly, should be under the counter. Point-of-sale advertising is expanding in supermarkets in the form of multiple sale points as opposed to one centralised display.

Every cash register now is a point of sale. Cash register stations, often staffed by minors, operate as mini tobacco marts with tobacco display cabinets at head height to ensure maximum tobacco promotion in a public place. The bill has a number of good provisions. I am a little concerned that much has been left to regulations concerning point of sale, but I shall talk about that further in Committee and shall also move some amendments. I thank the Minister for Health for agreeing to adjourn the debate at the conclusion of the second reading debate and move into Committee at a later time. I particularly want to address the issue of vending machines. Evidence suggests that vending machines should be banned.

Vending machines are difficult to police and prosecute. They are an invitation for youngsters to access cigarettes without any monitoring. Sports sponsorship by the tobacco industry is another controversial issue. No argument could support sports sponsorship by tobacco companies. I would go further than the Minister has in the bill, which has been brought into line with Commonwealth legislation by applying to events of international significance. The tobacco advertising review undertaken by Senator Herron and his committee recommended that there be no exemptions by the year 2000. I shall argue that point in Committee. It is time the loopholes were closed. Bringing this issue under the Public Health Act is a good move. I look forward to raising a few specific arguments in Committee.

Ms FICARRA (Georges River) [10.49 a.m.]: It gives me great pleasure to speak on the Public Health Amendment (Tobacco Advertising) Bill. However, the review of the Act started in 1995 and, as has been said, it has taken two years for the presentation of this bill. A number of health care groups, consumer organisations, the Australian Medical Association, Action on Smoking and Health - or ASH - the New South Wales Cancer Council, and the National Heart Foundation have been critical of the delay. A major issue to my constituents, and I expect to the majority of New South Wales residents, is the hypocritically and socially irresponsible stand of the Carr Government and the Minister for Health regarding marijuana - permissible in quantities for personal use - and their soft attitudes to shooting galleries, heroin and drugs in general, which are totally out of step with community attitudes.

The Government is soft on drugs, soft on crime and soft on positive outcomes. On the one hand it is restricting smoking in public places and prohibiting improper tobacco advertising but on the other hand it is allowing possession of up to 30 grams of marijuana, capable of being turned into 4,000 joints. It is a farce and a social disaster, and will result in a future health nightmare for our youth. In the second reading debate on the Tobacco Advertising Prohibition Bill on 3 December 1991 the present Minister for Health said:

The major concern is that there is no health promotion foundation . . . I foreshadow that a health promotion

sports foundation is likely to be a major part of the policy that the Labor Party will introduce when it comes to office . . .

We are still waiting. The Opposition will be supportive if the Minister establishes the foundation, because there is a great need for it. Recent admissions of the tobacco industry in the United States have conceded three points: smoking causes heart disease and lung cancer; nicotine is an addictive drug; and children as young as 14 are targets for industry advertising, as the honourable member for Manly pointed out. These and other revelations prove that the tobacco industry has been misleading smokers, governments, and the scientific and medical community for the past three decades. The Federal Bureau of Investigation is investigating whether tobacco industry representatives in the United States should be charged with perjury and a range of misleading and deceptive conduct charges.

Recently in Beijing nearly 2,000 delegates at the tenth world conference on tobacco and health called upon governments to subject the contents of tobacco products and smoke and all aspects of the tobacco business to strict and legally binding control. I congratulate two members of ASH, the Chairman, Associate Professor Simon Chapman, and the Executive Director, Anne Jones, on their relentless fight against the evils of tobacco and the

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insidious tobacco industry. ASH Australia was established by the New South Wales Cancer Council and the National Heart Foundation as an advocacy group to reduce the toll of death and disease caused by smoking. Priorities have included reducing the level of smoking by children and adults, increasing smoke-free indoor public places, raising community awareness about the harmful effects of smoking, and improving consumer protection for smokers and non-smokers.

Despite the fact that smoking is the single largest preventable cause of death and disease, smoking costs are rising. In 1994-95 in our State they represented an estimated \$4.2 billion and smoking-related conditions occupied 245,828 hospital bed days. Overall tobacco consumption in Australia is declining - the smoking rate of adults has stalled at 25 per cent - yet the smoking rates of children are rising after a decade of decline throughout the 1980s. That is alarming to all Australians. Health groups believe that the major reason for these worrying trends is the low level of government funding for prevention programs, as evidenced by a recent New South Wales Cancer Council study which showed that State governments on average collect \$60 in revenue from children who smoke and spend less than 11¢ in return on prevention. Although the Carr Government collects approximately \$800 million a year in tobacco franchise fees, the New South Wales Tobacco and Health Strategy 1995-1999 is poorly funded and lagging behind in achieving many of its goals.

Previous legislation eliminated outdoor tobacco advertising, especially at sports events, and tobacco advertising on taxis, buses and New South Wales publications. There was a reduction in tobacco sponsorship at sporting and cultural events; however, there was an increase in in-store tobacco advertising which compensated for this. Tobacco manufacturers have taken advantage of exemptions in the Act to promote their products. Therefore, the Government is obliged to close the loopholes. I congratulate the Minister on finally introducing the bill. All point-of-sale advertising must be effectively banned for good. That form of advertising is getting bigger, glitzier, more elaborate, more expensive, and more eye-catching to influence mainly young people. Manufacturers push their marketing strategies strongly on the retailers. They offer incentives, stacking recommendations, lighting, mirrors, promotional materials inside and outside the shops, and oversize packaging. The story goes on and on. Clearly, these forms of advertising by tobacco manufacturers are contrary to the intention of the legislation.

Retailers have been operating without clear guidelines. Most retailers are responsible in their practices. They are critical that there has been no consultation with the retailing industry. It is a danger to introduce any legislation without proper consultation. However, the majority of retailers are responsible and will welcome clear government directions regarding the display of tobacco products. The regulations will define legitimate displays in shops and provide retailers and enforcement officers with direction and certainty. The regulations will cover the method of price display as well and thus eliminate yet another tobacco advertising loophole. Promotional products, gifts - regardless of value - samples relating to tobacco products and promotions will be

prohibited from supply to the public.

Amendments relating to vending machines will bring their operations and siting within registered clubs into line with the situation in other licensed premises. Unsupervised vending machines are easily accessed by young persons. The bill will ensure that in future tobacco vending machines are located only in areas licensed for persons over the age of 18. I fully endorse the prohibition of toys and tricks meant to resemble tobacco products. Such outdated and inappropriate commercial items only encourage young persons to believe that smoking is positive, stylish and a normal aspect of life - and it is not. In line with Commonwealth legislation, there must be uniformity throughout Australia. Where the staging of a sporting or cultural event of international significance would be jeopardised by tobacco advertising bans, proposed section 61H exempts such an event. Proposed section 61J will give officers the right to enter and search shops and other premises to enforce the legislation. However, the section excludes residences and will not permit force to be exercised in the process. That is only sensible.

The bill clearly tells tobacco manufacturers that their past practices of thwarting the intent of the Tobacco Advertising Prohibition Act will no longer be tolerated. Introduction of a complete ban on all forms of tobacco promotion is recognised by many health groups around the world as a key component of a comprehensive smoking control program. The United States Surgeon General succinctly noted seven ways in which tobacco advertising and promotion could increase tobacco consumption. Advertising and promotion encourage children and young adults to experiment with tobacco products and initiate regular use. They increase tobacco users' daily consumption. They reduce current tobacco users' motivation to quit. They could encourage former smokers to resume smoking. Indirectly, media dependence on advertising revenues from the

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tobacco companies may discourage full and open discussion of the hazards of tobacco use, and the financial independence of organisations receiving tobacco company sponsorship may mute political opposition to measures designed to control advertising and promotion. The familiarity of tobacco advertising may create an environment in which tobacco use is seen not only as acceptable but as likely to be without hazard.

Measuring the impact of advertising on children's consumption patterns is not without its difficulties. Studies are limited to probing children's attitudes to, and recognition and recall of, advertising and brand selection. Australian schoolchildren are well aware of tobacco advertising. In a 1980 study undertaken in Western Australia children were asked to nominate the first brand of cigarette that came into their mind. Four brands - which also happened to be among the five top-selling and most heavily advertised brands in Australia - accounted for 87 per cent of the responses. The same four brands were then nominated by the children as being the most popular cigarettes smoked by children. When asked, "Why do you think these are the most popular?", nine out of 10 children answered, "Because they are the most advertised."

A study undertaken in Sydney in the same year showed that the same four brands were far and away the most popular brands smoked by children. Interestingly, in another survey Sydney adults demonstrated that their brand preferences were more evenly spread across the number of brands on the market, suggesting that advertising has a greater effect on young people than on adults. Subsequent research from the United Kingdom and the United States of America has reached the same conclusion. Children's views of tobacco advertising shape their pattern of future uptake. A major study in New South Wales in 1983 showed that children who approved of cigarette advertising were twice as likely to take up smoking as those who disapproved of advertising, and that children who disapproved of advertising were more likely to give up smoking than those who approved of it.

Similar research from Western Australia found that, compared to other influencing factors on the uptake of smoking, children's responses to cigarette advertising showed the strongest and most consistent evidence of an uptake effect among children. The association became stronger with time. Advertising also acts as a reinforcing factor in smoking among children. There is a consistent finding that children who smoke are more aware of cigarette advertising than children who do not smoke. There is plenty of evidence to show that women, in particular young women, are taking up smoking in greater rates than young men. That has a lot to do with the way in which the tobacco industry advertises in fashionable magazines, portraying the image of the smoker as

being stylish, sexy, mature and sophisticated.

Medical evidence links infant deaths to smoking in pregnancy; smoking is set to be the number one killer of women in the next couple of decades; heart trouble starts in teenage years. The evidence has been well documented. There is a need for State and Federal governments to continue to regulate tobacco manufacturers in all aspects. We have a social responsibility for our future generations. Smoking is unacceptable and it is unhealthy. It is about time we sent the right message, and this bill goes a long way towards doing that. I fully support the bill.

Mr GLACHAN (Albury) [11.03 a.m.]: I hold very strong views about the use of tobacco products. I recognise that tobacco products cannot be completely banned from our society, but if they could, much of the money spent on our hospitals could be diverted to other uses. Tobacco consumption has a devastating effect upon the people addicted to it. I am very saddened that young people, particularly young women, are taking up smoking in increasing numbers because, as my colleague the honourable member for Georges River has said, they consider smoking to be a sign of sophistication and of being clever and "with it". Advertising has portrayed that picture for a long time and has led people to the conclusion that if they want to be one of the smart and "with it" members of society, they have to have a cigarette in their hand. That is very disappointing.

I am sensible enough, however, to realise that tobacco is a legal product, that it is available in the community and that the tobacco industry is large, employs many people and pays a great deal of taxation to government. I understand that business is business and tobacco products cannot be completely banned; but if I had my way, I would ban them. Things being as they are, that will not happen. We live in a free society and smoking is a matter of choice; people can choose to use tobacco products. I record my personal advice to all those who use tobacco products: give up while you have the choice; and to those thinking of taking up the habit: do not do it.

Mr O'FARRELL (Northcott) [11.05 a.m.]: Honourable members are debating this bill and other pieces of legislation that seek to restrict the sale of tobacco products because they are harmful to health.

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Even the tobacco companies now recognise the dangers of tobacco consumption. As a Liberal, I recognise that people such as my friend the honourable member for Dubbo may choose to smoke. I recognise also, however, that his smoking and the smoking of others is a cost to all of us as taxpayers. It is clear that people who have been, and who are, smokers are greater users of the health system than non-smokers, and it is for that reason that this legislation should be supported. Along with the honourable member for Georges River, I find it incredibly hypocritical that the Government should seek to parade antismoking credentials at a time that it seeks in a sense to legalise possession of marijuana.

Mr McManus: That's rubbish.

Mr O'FARRELL: Marijuana is more carcinogenic and has a greater impact on fertility than tobacco smoking, and can also lead to other health problems, the cost of which we as taxpayers have to pick up. It is of great concern that the Parliamentary Secretary for Police refuses to accept the problems that marijuana and other drugs pose to society. I speak in this debate because of my concern - shared with the honourable member for Manly, the honourable member for Georges River and others - about the extent of outlets selling tobacco. As recently as last week my constituent Mrs Betty Grant came to see me to express her concern about the sale of cigarettes at each and every register of a local supermarket. Easy access to tobacco products indicates clearly to students and young people that, just as one might go to a supermarket to buy cheap soft drinks, chips and lollies, it is acceptable to buy tobacco.

The shopping centre in which my electorate office is located has an old-fashioned tobacconist shop. Whether or not the tobacconist advertises - which would be affected by this bill - people know they can go to his shop to buy tobacco products. I would much prefer an increase in the number of tobacconist shops in Sydney to a continuation of the present proliferation of the sale of tobacco through a variety of outlets, as described by the honourable member for Georges River and the honourable member for North Shore. My concern is that the sale

of tobacco should in some way be restricted to places in which people who are legally able to buy it can do so.

I have no problem with the new bottle shop that has opened in my electorate - entry to which is dependent upon a person being 18 or over - extensively advertising cigars, a fashionable scourge, at the cash registers. Those buying products from a bottle shop are supposed to be over 18 years, so in that instance the sale of tobacco products is not being forced down the throats of young children. I am happy to lend my support for this legislation. I do not blame retailers for the present proliferation of outlets for the sale of tobacco; they are doing what is legally permissible. The Government has to take a lead. I tend to agree with the honourable member for Albury that consideration should be given to tightening restrictions on the sale of tobacco products.

Dr REFSHAUGE (Marrickville - Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [11.10 a.m.], in reply: I thank honourable members for their contributions to the debate. Despite the bipartisan approach to the legislation, it is important that I respond to some of the issues raised. Firstly, in regard to the development of the bill, as the honourable member for Manly pointed out, this legislation was opposed by the coalition when it was in government. The coalition fought tooth and nail to prevent passage of the legislation, but it was caught out. It was trounced in the upper House by the Independents, particularly Reverend the Hon. F. J. Nile. That major backdown by the Opposition demonstrated that the coalition had no interest in leadership at that stage.

More importantly and more insidiously, that bill provided that all point-of-sale advertising should cease as of 1 July 1993. At that time the coalition refused to recognise that provision in the legislation. The matter was debated in both Houses, and the intention of the Parliament was that point-of-sale advertising would cease on 1 July 1993. Despite that, the coalition went out of its way to try to find some regulations that would permit advertising at point of sale. That is when the confusion began, because the former Government continued to try to make others believe that the legislation passed by the New South Wales Parliament was wrong. It was necessary to enter into a second phase of consultation because of the misrepresentation, particularly by the Liberal Party, that the legislation permitted point-of-sale advertising.

I am delighted that Carcosa's case has proved beyond doubt that my position was right and the coalition's position was wrong. The coalition's misleading of the people of New South Wales - the tobacco traders and the general public - has caused significant confusion and has allowed point-of-sale advertising. A second phase of consultation was necessary to ensure that the law was in accordance with Parliament's intention. But the Opposition continued to push its absolutely outrageous

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misrepresentation that point-of-sale advertising was allowed. This bill makes crystal clear the intentions of the Labor Party, the crossbenchers and the Independents, who had the numbers in both Houses of Parliament at that stage. Their will prevails and, at last, the coalition has come on side.

[Interruption]

Kerry has the numbers, that is what I have been told. Kerry has the numbers now, but the Opposition does not have the guts to move: that is the real problem. The honourable member for North Shore suggested that I should have banned tobacco sponsorship of the Bathurst 500. It was the Opposition that convinced Reverend the Hon. F. J. Nile that I could not legally do that. I proposed that I should be able to do that, but the Opposition worked with the crossbenchers to defeat me. What you were asking me to do at that stage was to break the law. It will be interesting for those in the gallery to hear that a member of Parliament asked a Minister of the Crown to break the law. It was not a law I agreed with but I could not amend it because the Opposition prevented me from doing so. Now you say you opposed me being able to do it and, having won the day, you now say that I should break the law. That is the hypocrisy of the coalition.

The Opposition wanted me to break the law. The coalition's inability to understand legislation was highlighted by that genius who worked on the Gladesville election campaign, the honourable member for Northcott. The genius of the Liberal Party said that the legislation will legalise marijuana. It is not the Government's intention to legalise marijuana. Once again for the edification of those in the gallery, it is

important to realise that this member of Parliament says that the legislation legalises marijuana. I am delighted with the support for the bill and, as indicated, the Government will delay consideration in Committee until a later hour this day.

Mr O'Farrell: On a point of order. I am concerned that children from the Holy Family primary school will leave this place believing that the Government is not proposing to legalise marijuana -

Mr ACTING-SPEAKER (Mr Mills): Order! No point of order is involved.

Motion agreed to.

Bill read a second time.

INTERNATIONAL TRANSFER OF PRISONERS (NEW SOUTH WALES) BILL

Second Reading

Debate resumed from 12 November.

Mrs CHIKAROVSKI (Lane Cove) [11.16 a.m.]: In speaking to this bill I should acknowledge that it follows the introduction of Commonwealth legislation. It will facilitate the transfer of international prisoners both to and from this country. The Opposition has serious concerns about the bill and is not supportive of it, and other members will raise various matters and elaborate on our concern. The bill follows a decision by the Standing Committee of Attorneys-General, SCAG, held in July 1992. That group made an in-principle decision that Australia should work towards the implementation of arrangements to enable international prisoner transfers to take place. Some general principles were agreed on at that meeting. They were:

- the Commonwealth will administer the scheme and pass legislation to bring treaties into effect, provide an administrative structure for transfers and regulate the status of prisoners who are to be transferred;
- states and territories will pass legislation providing the necessary authority for the transfer of state or territory offenders out of the jurisdiction and to permit the detention within their prisons of persons from outside their jurisdictions;
- jurisdictions agree to accept prisoners on transfer into their prisons on the basis of demonstrated community ties;
- the Commonwealth will meet the costs of administering the scheme and the receiving state or territory will meet the costs of transfer from overseas to Australia and of maintaining that person while in prison; and
- the scheme will apply to all offences without exception.

As a consequence of that meeting and a number of subsequent meetings, on 21 September 1996 the Federal Attorney-General introduced a bill into the House of Representatives. That bill was passed by the Federal Parliament, and we are now debating the complementary New South Wales bill. The purpose of the bill introduced in the Commonwealth Parliament was to enable Australians imprisoned overseas, and foreign nationals imprisoned in Australia, to be returned to their home countries to complete the serving of their sentences. A second purpose, subsequent to the SCAG decision of 1992, was that persons having a connection with Australia who have been convicted by the International War Crimes Tribunal of war crimes in the former Yugoslavia and Rwanda - referred to as tribunal prisoners - would be transferred to Australia to serve their sentences.

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As I said, the bill has been through a consultation period and all States and Territories, with the exception of the Northern Territory, have agreed to participate and enact complementary legislation. There are two parts to

the Federal bill, which deals with the difference between general prisoners and tribunal prisoners. The general prisoners are of particular concern to this House. The scheme for general prisoner transfers between Australia and other countries will apply to all offences without exception; it will cover persons who have been convicted of a crime and sentenced to imprisonment or other deprivation of liberty; and it will include persons confined in connection with criminal conduct by reason of mental disorder and persons who have been released on parole. The bill provides that the transfers are to be consensual - that is, they require the consent of the person to be transferred, the Commonwealth Government, the relevant State or Territory Government and the other country.

The conditions of transfer include that imprisonment must be under a final order, that at least six months of the sentence is remaining to be served, unless the Attorney General determines that a transfer for a shorter period is acceptable, and the person is an Australian citizen or is permitted to travel to, enter and remain in Australia indefinitely pursuant to the Migration Act and has community ties with a State or Territory. The different nature of the crimes of tribunal prisoners is taken into account. The intention of the legislation is that a tribunal prisoner would not be transferred to Australia unless he or she had a connection with Australia, the Australian Government consented to the transfer, and the prisoner was convicted by an international war crimes tribunal. In that case consent from the tribunal prisoner is not a requirement in order to facilitate the transfer. It is fair to say that a number of countries have developed bilateral prisoner transfer treaties. The principal multilateral regime referred to these days is the convention of the Council of Europe on the transfer of sentenced prisoners. The Commonwealth scheme for the transfer of convicted offenders is another regime. The intention is that Australia would become a party to, and would implement, the existing multilateral regimes and would negotiate bilateral treaty arrangements where appropriate.

It is fair to say that internationally there is opposition to the transfer of prisoners, for the principal reason that this system would undermine the integrity of national penal systems. In that event, the fight against drug-related crimes would be undermined. In this country those who are opposed to transfers are worried about the possibility of the international battle against crime being undermined.

Mr O'Farrell: There will soon be express checkouts from New South Wales gaols.

Mrs CHIKAROVSKI: As the honourable member for Northcott said, there are certainly concerns about how it will operate. The principal argument in favour of the scheme is its humanitarian aspects, that it is more difficult for imprisoned people overseas to serve their time when they are separate from their families. The same thing applies to overseas prisoners here who are separated from their families; it is more difficult for them to serve time in New South Wales gaols, for example, and so they should be repatriated home in order to facilitate a better relationship with their families in their own countries. It is argued that repatriation will help with rehabilitation.

It should be put on the record that a number of supporters of the scheme - parliamentarians, academics, human rights activists and prisoner support groups - have said the scheme is beneficial for the rehabilitation of prisoners. It comes as no surprise that the prisoners themselves advocate the scheme. But there are a number of difficulties with the scheme, two of which have caused a lot of concern among my colleagues in this House. They do not argue against the scheme on humanitarian grounds but because of problems with its implementation.

First, there is absolutely no way that the scheme can be costed. It has been argued that it will be a cost-saving measure for the State Government but I remind honourable members of what I said a few minutes ago. The States are required to fund the scheme, that is the cost of bringing prisoners home and of maintaining them within the corrective services system. According to figures provided to the Federal Government by the State, New South Wales has almost 900 prisoners who were born in another country and are not naturalised Australians, and would therefore be eligible for transfer or repatriation under this scheme.

To put that into context, New South Wales has 6,500 inmates, so one-sixth of them could be repatriated under this scheme. By contrast, according to the Department of Foreign Affairs, approximately 101 Australians are serving sentences in overseas gaols. Of those, 26 are in New Zealand, 19 are in Thailand, 13 are in the

United States and 63 are presently in an overseas gaol awaiting sentence. The Opposition is concerned that about 900 foreign

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inmates could be repatriated under this scheme but only 101 Australians could return. If one accepts the argument that all 900 foreign prisoners are prepared to go back to their country of origin and that 101 Australians will return to this State, there will be a net gain for New South Wales because our costs will be reduced. But I suggest it is almost totally unrealistic to expect that all the foreign 900 inmates will return home, particularly because, as I am sure the Minister for Corrective Services is prepared to confirm, a number of those inmates come from countries whose gaols have some of the worst conditions that one could imagine.

The fact is that they come from countries where Australians prisoners want to come home because the conditions under which they are serving their time are almost intolerable. Do we seriously accept that foreigners in New South Wales gaols, whose conditions might be difficult, but which are certainly much better than the conditions in their own country, will decide - remember that they must consent to the transfer - to leave and go back to what is for them an intolerable regime? The reality is that that will not happen. We may find that Australians will be brought home but that no foreigners will be sent back to their country of origin. As a consequence, rather than a cost saving to the New South Wales system, there will be an additional burden on it.

It has been suggested that there will be some cost savings to the New South Wales system but the Opposition does not believe that. Indeed, it has a real concern about it. It is an unrealistic expectation of any Minister to suggest that New South Wales will save some money by implementing this scheme. The second concern about this legislation is the impact of the cost of sentencing, to which I will refer. The bill provides for two different forms of sentencing enforcement. One is a continued enforcement which provides that, with only minor adaptations considered necessary to ensure consistency with Australian law, the sentence will be continued within the Australian jurisdiction. The second is a converted enforcement, which substitutes a different sentence for Australians returning to our gaols.

I should also point out that these prisoners will continue to be sentenced as if they were Federal prisoners. There is no control by the State over their sentence because basically they will be sentenced as Federal prisoners and they will continue to serve their sentences as Federal prisoners. The coalition is concerned about the implementation. What does it mean, for example, if a prisoner is sentenced in Thailand to 45 years imprisonment? Will that person be required to serve 45 years in an Australian gaol? There is a strong community view that people who have been convicted of serious drug offences under the laws of other countries and who have received sentences of such magnitude should be required to serve those sentences and that their sentences should not be adjusted when they come back to Australia.

I understand from my discussions with the Federal Attorney-General's Department that there is scope for negotiation between the sentencing jurisdiction and the Australian jurisdiction to adjust those sentences. However, I do not think many people in Australia believe that those sentences should be adjusted down. Those who have been convicted in a foreign jurisdiction should be required to serve the length of sentence handed down by that jurisdiction. Bringing people back to serve their sentences in Australia will impose an additional financial burden on our system. If those who are subject to lengthy sentences overseas are brought back to Australian gaols they will be a financial burden for many years.

Honourable members should note that in the United States it costs from approximately \$65,000 to house a prisoner in maximum security down to about \$32,000 to house a prisoner in minimum security. The cost to the State of a person serving a 45-year sentence would be considerable. My colleagues are absolutely convinced that lengthy sentences should not be reduced, and that New South Wales taxpayers should not have to bear that additional financial burden. My colleagues in the Liberal and National parties are genuinely concerned about how the return of prisoners from overseas will impact on our State system. As sentencing decisions are out of our hands, we do not know how serious the impact of the bill will be on New South Wales taxpayers in years to come. There is great confusion about the impact of this bill in terms of costs. No-one can say with certainty how many prisoners will be affected, either by entering or by leaving the system. There is confusion about how the sentencing system will work. As we do not have control over sentencing, it is difficult for us to ensure that the

sentences imposed on people in Australia will not impose a huge financial burden on New South Wales.

While the Opposition acknowledges the humanitarian nature of the legislation - and no-one would argue that there are certain humanitarian reasons why people should be brought back to Australia or, indeed, repatriated to another country - it will create problems for the justice and corrections systems in New South Wales. It will certainly create

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problems in terms of cost. Clearly, the bill provides for the costs to be borne by New South Wales. However, the Minister and, indeed, the Federal Attorney-General have not clarified what the ultimate cost of the system will be. The Opposition is concerned that the financial burden will fall on taxpayers. We are concerned also as a matter of principle about whether Australia should be involved in a scheme whereby the work of overseas justice systems will be undermined, which could result in the fight on such issues as the drug war being undermined. It would be totally abhorrent to all Australians if anything we did in this House sent the wrong message to those involved in the drug trade.

Mr O'Farrell: It's too late; we have legalised marijuana.

Mrs CHIKAROVSKI: That is true. The Government has been sending out the wrong messages for some time. As the honourable member for Northcott said, it is too late because we have already effectively decriminalised marijuana. This bill is almost consistent with the messages being sent by the Government. The Opposition wants to ensure that the fight against the drug war is not undermined. Those involved in the drug trade need to understand that they will not have soft options; they will not be treated with kid gloves. Indeed, they should be prepared to accept the consequences of their involvement in drugs. If the consequences include terms of imprisonment in difficult conditions in such jurisdictions as those referred to earlier in debate, so be it. The Opposition is not prepared to support any softening of the attitude so that those people will get it easy. While I understand the reasons for the bill, the Opposition does not support it.

Mr PEACOCKE (Dubbo) [11.35 a.m.]: I oppose this bill for five separate reasons. Undoubtedly the bill had its genesis in an agreement reached in 1992 by the then Attorneys-General of the States and the Commonwealth which resulted in the Commonwealth International Transfer of Prisoners Act 1997. The Opposition does not oppose this bill lightly because obviously it was motivated by noble humanitarian ideals. The Commonwealth legislation, on which the New South Wales legislation is based and which affects our legislation, provides for three consents to a transfer either back to Australia from a transfer country or to a transfer country from Australia: that of the prisoner concerned, a representative of the Australian Government and a representative of the government of the transfer country. As the honourable member for Lane Cove said, it is obvious that prisoners in Australian gaols would be loath to request or consent to a transfer to any one of a number of Asian gaols because the conditions in Australian gaols are far superior to the normal lifestyle in many Asian countries. Obviously, prisoners are much better off here. I will not dwell on that as the honourable member for Lane Cove dealt with that matter in detail.

Obviously, Australians in foreign gaols, particularly Asian gaols, are keen to serve their sentences in Australian gaols. Many Australians currently incarcerated in foreign gaols, particularly in Asia, committed crimes relating to drugs. They put themselves beyond the pale in seeking the sympathy of the Australian people because they knew what the result of a conviction would be in terms of the length of imprisonment and the conditions they would be in once they were committed to prison. I have absolutely no sympathy for those people; I would prefer to see them take everything they receive in Asia because they are mongrel people. They have no compunction in bringing into Australia drugs which destroy the lives of many Australians, including young people.

Foreign prisoners in Australia receive extraordinarily light sentences compared with those imposed in Asian countries. Under the Commonwealth legislation and the proposed State legislation prisoners brought back to Australia are entitled to all the soft options available in this country, such as parole, early release, pardon and various other matters. The Australian judiciary has a pathetic record of imposing extraordinarily light sentences for extraordinarily serious crimes involving drugs. I had the painful experience of listening to the rubbish in the

previous debate about cigarette advertising. If Australia applied the same firm resolve to those guilty of providing narcotics, we would be better off.

But Australia has a long record of feeble law enforcement by courts, and it is probable that prisoners repatriated to Australia would be released at a very early time. In the end one must take the view that the only possible grounds for supporting this legislation are humanitarian. I would have some reluctant sympathy for the two children of a woman who has been gaoled in Thailand. I have no sympathy at all for her, but I do have sympathy for her children, who need to see their mother. That might be a case in which a transfer back to Australia might, on the periphery, be justified.

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New South Wales is also being conned by the Commonwealth in that all the costs of these arrangements are based on the premise that the State involved will pay the costs of the prisoners. Any fool can see that in the equation that was outlined by the honourable member for Lane Cove the State finished up on the wrong side of the balance sheet. Prisoners in Australia will not go back to Asian gaols. Prisoners in Asian gaols will come back to Australia, and at the rate of \$40,000 a year, or whatever the annual cost is of maintaining a prisoner, the State will suffer a massive loss. Any rational person would oppose the legislation from the State's point of view.

There have been a great many changes since 1992, when the original agreement was reached by the Standing Committee of Attorneys-General. The attitudes of mainstream Australians have changed. The sympathetic attitude they may have had then does not apply now because there has been a marked increase in peddling of drugs and in crimes connected with drugs in Australia over that five-year period. In all those circumstances I have no compunction about totally opposing this legislation. The Commonwealth should be told that if it wants to enact legislation, it should pay the costs that will result from it. Let us get on with the business of fighting crime in New South Wales.

Debate adjourned on motion by Dr Refshauge.

WALKER TRUSTS AMENDMENT BILL

In Committee

Consideration of the Legislative Council's amendments.

*Schedule of amendments referred to in
message of 11 November 1997.*

No. 1 Page 3, Schedule 1[1]. After line 16, insert:

(3) The Minister must, out of funds available to the Government, allocate funds for the restoration and maintenance of heritage buildings (including outbuildings and statuary) comprising or associated with the Dame Eadith Walker Hospital.

No. 2 Page 3, Schedule 1[2], line 24. After "land" insert "for public hospital or other public health purposes, for the purpose of public open space or for the purpose of the agistment of horses, or for purposes ancillary to public hospital, public health, public open space or horse agistment purposes".

No. 3 Page 3, Schedule 1[2], line 25. After "must" insert ", for public hospital or other public health purposes, for the purpose of public open space or for the purpose of the agistment of horses, or for purposes ancillary to public hospital, public health, public open space or horse agistment purposes,".

No. 4 Page 3, Schedule 1[2], line 28. After "such" insert "public hospital, other public health, public open space, horse agistment or ancillary".

Dr REFSHAUGE (Marrickville - Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [11.43 a.m.]: I move:

That Legislative Council amendment No. 1 be amended by leaving out all words after "The Minister must" and adding instead "after considering the amount of funds paid to the Central Sydney Area Health Service under section 11(e)(ii) and such other matters as the Minister thinks fit, allocate out of funds available to the Government such additional funds (if any) as the Minister considers appropriate".

The Government supports the other amendments moved in the Legislative Council.

Mrs SKINNER (North Shore) [11.44 a.m.]: I moved an amendment that introduced this section into the bill. That amendment required that the Minister must, out of funds available to the Government, allocate funds for the restoration and maintenance of heritage buildings, including outbuildings and statuary, comprising or associated with the Dame Eadith Walker hospital. The Government's amendment will considerably weaken my amendment. It will allow the Minister, "after considering the amount of funds paid to the Central Sydney Area Health Service and such other matters as the Minister thinks fit, allocate out of funds available to the Government such additional funds (if any) as the Minister considers appropriate". It may well be that the Minister will consider that no funds are appropriate for the restoration of these buildings, which are a important part of the Dame Eadith Walker hospital. The Minister has changed his position in relation to this matter. When I first raised the matter on 15 October the Minister said:

The Opposition believes that the Minister for Health should allocate Government funds to the restoration and maintenance of the heritage building. If the Minister for Health were to do that the funds would be allocated from the health budget, which would be difficult. The Opposition can put that argument if it wishes, but it will not wash with the Government.

Later that day he said:

The Central Sydney Area Health Service has undertaken to spend approximately a further \$250,000 on restoration of the outbuildings, beginning with the stables.

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The Minister has contradicted himself. He should make up his mind. He then said:

The Opposition, in desperately trying to take money away from health and put it into heritage work . . .

In the previous sentence he said that was exactly what the Central Sydney Area Health Service had done. He then said:

The honourable member for North Shore is asking me to spend health dollars on heritage buildings, including buildings that will not necessarily be used for health facilities. In other words, she is asking me to become the Minister for Health and the Minister for the restoration of a number of important heritage buildings. That is outrageous.

That clearly indicates the Minister's intention. My amendment did not limit the funding to be provided by the Minister for Health; it required the Government to provide the funding. The Minister's amendment to the amendment means that no funds need to be provided, because the Minister may well consider it inappropriate and there may be no additional funds available. That is what he has said both in his speech and in the vague wording of the amendment. The Opposition opposes the amendment.

Mr MacCARTHY (Strathfield) [11.49 a.m.]: *Hansard* of the Committee debate on the bill reveals that the majority of the amendments proposed by the Concord community, particularly the Concord Heritage Society, were opposed by the Minister. I will not go into all the details of the amendments, as my colleague the honourable member for North Shore, the shadow minister for health, has already done so. However, honourable members should be reminded that the bill is again before the House because the Government had to be dragged

kicking and screaming to the point of moving amendments in the upper House to bring the bill more into line with what was being advocated by the Opposition.

The Minister's amendment to the first of the Legislative Council amendments makes it clear that he and the Government have no intention of restoring this unique property unless they are forced to do so. One only has to read the amendment to understand the way that the Government hopes to weasel out of restoring the buildings. The amendment refers to the allocation of "such additional funds (if any) as the Minister considers appropriate". The Opposition has amended the bill to ensure that the Government will restore this building. As I said in my contribution to the second reading debate, many of the unique Victorian and Edwardian buildings on the estate were designed by Blacket and Sulman and they are important to the Concord community. The buildings preserve the memory of a great benefactor not only of the local Concord community but also of the New South Wales community as a whole. That bequest should be respected, honoured and restored. It would be an absolute disgrace if this property, which is unique not only to Australia but to the whole of the southern hemisphere, is not restored as it should be. The amendments that were passed in the other place should be retained in the bill. The Minister stands condemned for trying to weasel out of his obligations by moving a further amendment.

The TEMPORARY CHAIRMAN (Mr Mills): Order! I welcome to the public gallery members of the Hamilton Probus Club, which is in the electorate of the honourable member for Waratah.

Question - That the amendment of Legislative Council amendment No. 1 be agreed to - put.

The Committee divided.

Ayes, 48

Ms Allan	Mr Martin
Mr Amery	Ms Meagher
Mr Anderson	Mr Moss
Ms Andrews	Mr Murray
Mr Aquilina	Mr Nagle
Mrs Beamer	Mr Neilly
Mr Carr	Ms Nori
Mr Clough	Mr E. T. Page
Mr Crittenden	Mr Price
Mr Debus	Dr Refshauge
Mr Face	Mr Rogan
Mr Gaudry	Mr Rumble
Mrs Grusovin	Mr Scully
Ms Hall	Mr Shedden
Mr Harrison	Mr Stewart
Ms Harrison	Mr Sullivan
Mr Hunter	Mr Tripodi
Mr Iemma	Mr Watkins
Mr Knowles	Mr Whelan
Mr Langton	Mr Woods
Mrs Lo Po'	Mr Yeadon
Mr Lynch	
Mr McBride	<i>Tellers,</i>
Mr McManus	Mr Beckroge
Mr Markham	Mr Thompson

Noes, 45

Mr Beck	Mr O'Doherty
Mr Blackmore	Mr O'Farrell
Mr Brogden	Mr D. L. Page
Mr Chappell	Mr Peacocke
Mrs Chikarovski	Mr Phillips
Mr Cochran	Mr Photios
Mr Cruickshank	Mr Richardson
Mr Debnam	Mr Rixon
Mr Downy	Mr Rozzoli
Mr Ellis	Mr Schipp
Ms Ficarra	Mr Schultz
Mr Fraser	Ms Seaton
Mr Glachan	Mrs Skinner
Mr Hartcher	Mr Small
Mr Hazzard	Mr Smith
Mr Humpherson	Mr Souris
Dr Kernohan	Mr Tink
Mr Kinross	Mr J. H. Turner
Mr MacCarthy	Mr R. W. Turner
Dr Macdonald	Mr Windsor
Mr Merton	<i>Tellers,</i>
Ms Moore	Mr Jeffery
Mr Oakeshott	Mr Kerr

Pair

Mr Gibson Mr Collins

Question so resolved in the affirmative.

Amendment of Legislative Council's amendment No. 1 agreed to.

Legislative Council's amendment No. 1 as amended agreed to.

Legislative Council's amendments Nos 2, 3 and 4 agreed to on motion by Dr Refshauge.

Resolution reported from Committee and report adopted.

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

HEALTH SERVICES BILL

Second Reading

Debate resumed from 12 November.

Mrs SKINNER (North Shore) [12.04 p.m.]: The Health Services Bill consolidates the provisions of the Area Health Services Act 1986 and the Public Hospitals Act 1929 into a single Act. It extends the metropolitan area health service structure to rural New South Wales and provides the framework for the operation of the administrative structure. Among the more notable changes, the bill facilitates transfers of staff within the public health system thereby avoiding redundancies, requires reporting by staff of serious sex or violence offences and provides for remuneration for board members. I shall comment further on those matters at a later time.

This bill was distributed as an exposure draft in October 1996 and was mentioned in the Governor's Speech at the commencement of this parliamentary session. In the second reading speech the Minister claimed that "the bill has been the subject of substantial consultation with organisations within the public health system". Yet, three key organisations that I consulted - the Health Services Association, the Rural Doctors Association and the Australian Medical Association - submitted comments and recommend changes to the exposure draft bill. Of the recommended 56 suggested changes, 47 were ignored and nine were accepted. A great number of those nine changes were procedural or structural in nature.

Favourable arguments for the bill are that it provides a consistent health administration framework across New South Wales and acknowledges current practice in some cases where visiting medical officers contract their services through their practice companies. The bill also provides for performance agreements at regional level for reporting of sex offences and, as I have said, for board members to be paid on the same basis as most other government agency board members. Arguments against the bill are rather detailed. Overwhelming criticism has been levelled, particularly by the Health Services Association - HSA - which is the industry voice of public health providers. Its criticism is of centralisation of authority within the department and of the Minister. I should like to read onto the record the rejected recommendations of the HSA. In its preamble the HSA said:

The Association is concerned that the legislation appears to consolidate an enormous level of control and authority centrally within the department and the office of the Minister of the day.

... given the state of the intention of governments, previous legislation and various reports on the NSW health industry structure have all indicated a policy of devolvement of operational responsibility to area health services it is concerning to see many aspects of this Bill which create the opposite effect.

Few provisions guarantee to area health service boards and senior management an independence of
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action or management prerogative. There appears to be little in the management or governance of the New South Wales health system that does not and cannot come within the full view of the Minister of the day or the Department of Health. This has the impact of creating an extremely centralised power structure within the ministry and the department, contrasted with considerable accountability for operational performance in the field, whilst providing a low level of control. The HSA presented to the Minister this reference:

The Association also considers that the general issue of governance of area health services and State health services and the relationship of boards to Minister and department are poorly addressed in this legislation. The Association further considers that the drafting of this Bill is a perfect opportunity for the issue of governance and a clarification of the roles, relationships and responsibilities of boards of governance, CEO's, Minister and the department to be more clearly stated than either currently is the case or is stated in this Bill.

The association continued:

If area health services are to have responsibility for management of their health services the Association would question why it is necessary to have the approval of the Minister if an area health service wishes to provide health and ancillary services to bodies outside the public health system.

It also stated:

The Association has considerable concern regarding the current nature and tenor of performance contracts between the Director General and area health services. The nature of the contracts to date seem to have been very one sided in their construct and in the language used. There is, for instance, no provision either in the current performance contracts or in the legislation for any obligations and requirements to be placed upon the Government, the Minister or the Department.

Those general comments have not been picked up in changes made to the exposure draft bill. I intend to detail some of the other recommendations made by the association. I am not suggesting that I would support all of the

recommendations; I am suggesting that the Minister has not consulted effectively, contrary to his claim in debate on this legislation. The Minister has said to the organisations, "Read this, give me your comments, and I'll ignore them." I do not consider rejection of 47 out of 56 recommendations to be effective consultation. The Australian Medical Association, the Health Services Association, the Rural Doctors Association and the New South Wales Council of Social Service all feel that their comments have been ignored and that the consultation process has not been effective.

I turn to clause 20, concerning the dissolution, amalgamation or change of name of area health services. The Health Services Association has questioned the desirability of allowing dissolutions, transfers and amalgamations to area health services without any inquiry being held about that. The concern was not accepted by the Minister. I should have expected the Minister to understand the concerns expressed, given the outrage expressed by people in rural New South Wales. Ever since the Minister restructured the administration of health in the bush, rural people have been complaining about their lack of voice, about the Minister's dictatorial manner in changing the way in which health services operate and about the flimsy consultation process undertaken in the production of a report by consultant Jill Hardwick, who consulted health administrators and no-one else and who ignored the wishes of local councils, local communities and many people who have been fundamental in raising funds and keeping the heart in country hospitals. The Minister should have paid considerable attention to those concerns.

Clause 25 states that an area health board is subject to the control and direction of the Minister. The HSA questioned the independence and governance responsibility of area health services if almost any aspect of the governance and management of an area health board is to be at the discretion of the Minister of the day. The Minister ignored that comment. The Australian Medical Association had concerns about clause 26. It was concerned that only one member of an area health board is to be elected from the staff. The association suggested the presence of a visiting practitioner at board meetings. That recommendation was not accepted. Clause 28 provides for the appointment of a chief executive officer of area health services. The functions of the chief executive officer are described as being to manage the affairs of the service and to exercise such functions as may be imposed by or under legislation.

The Australian Medical Association felt that the chief executive officer ought to be appointed by the board of governance responsible for the area health service. The recommendation, however, was ignored in the redraft of the bill. Clause 29 effectively allows the Minister to dismiss the board of an area health service for an indefinite period and make the chief executive officer or some other person the administrator of the service. In the view of the AMA, it would be appropriate to set a limitation on the period of time that an area health service, or a State health service for that matter, could be run by an individual as opposed to a board. The AMA suggested a maximum period of six months, a suggestion that I consider to be entirely reasonable, but that was ignored by the Government.

The Health Services Association had several concerns about part 3, which relates to functions of area health services. The association spoke of unduly restrictive provisions about contract arrangements

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between one area health service and another area health service or another health organisation. It is stated that an area health service must not enter into an agreement without the approval of the Minister. The HSA asked whether it is intended that an area health service negotiate and provide management services to organisations other than State health services or associated health organisations, and stated that such should be spelt out if that is so. The association expressed the view that clause 30(4) is confusing and does not clarify what would be the relationship between the area health service and a public health organisation that the area health service had agreed to manage. Those concerns were ignored in the redraft of the legislation.

The Health Services Association was also of the view that clause 31(2) is confusing. Clause 31(2) enables an area health service to open, close or restrict any health service it provides or any of its hospitals. Clause 31(4) enables the Minister to direct an area health service to ensure that any hospital or health service be established, closed or restricted. The association asked whether the direction of the Minister needs to be obtained if an area health service desires to close down one bed or 20 beds or to close or change one service within its area of

operation. It is interesting that when it suits the Minister to not comment about matters relating to hospital administration he hides behind the view, "That's a decision of the area health service." However, when, because of budgetary constraints, an area health service has no choice but to close down beds or other services the Minister decides that such action will not go ahead. I well understand the comment made by the association that clause 31 is confusing. The matter has not been clarified.

The Health Services Association pointed out that under clause 31 the Minister is able to direct an area health service to do and/or provide a range of services, but appears to take no budgetary accountability in respect of those instructions. That matter should have been addressed in this bill. Clause 36 enables an area health service to accept property by gifts, devises and bequests for any purpose connected with the conduct of hospitals, the provision of health services or the exercise of its functions. The Health Services Association expressed concern that the exposure draft of the bill required ministerial approval for contracts or agreements for the provision of any service by the area health service. According to the association, the requirement to obtain ministerial approval appears to be extremely limiting to area health service management. That issue has also been ignored in the redraft of the bill.

Clause 39 relates to a number of by-laws. The association is of the opinion that the necessity to obtain Medical Services Committee approval to any amendment to any by-law is unduly onerous. The association is of the view that the Medical Services Committee ought to be able to comment upon aspects of by-laws which have particular applicability to medical staff appointments and the relationship between the medical staff and area health services. However, it expresses the view that the Medical Services Committee should not be able to intervene and comment upon every aspect of health service by-laws - again, a matter raised for consideration that has not been addressed in the bill. Clause 115 is the next clause that I wish to highlight as having been ignored by the Minister in this redrafted version of the bill. Clause 115 provides that the Health Administration Corporation is taken to be the employer of the staff of public health organisations for the purpose of entering into industrial agreements, and also empowers it to determine conditions of employment from time to time.

The Health Services Association is concerned that this is a highly centralised bill. It will place a great deal of power in central Sydney and away from people in the country and the regions where their health services are located. It will put that power into the hands of the Minister for Health, who has a reputation as someone with a bunker mentality, locked away in a fortress, unable, incapable and unwilling to consult or give people a proper voice in how their services are planned and operated. The HSA said in relation to clause 115 that it perpetuates a highly centralised industrial relations service within the New South Wales Department of Health. The association is of the view that this structure permits the development of only minimal local human resources and industrial relations initiative, and totally removes from the management-employee relationship the issue of salary and conditions-setting. The Health Services Association says that the clause appears to exclude the Health Administration Corporation from entering into an enterprise agreement.

I hasten to say that a future coalition government would be extremely supportive of wages and conditions awards, penalty rates and all of those things that are the right of nurses and other people working within the health system at the moment, contrary to claims by people in some quarters. I am very proud of the coalition's record, particularly in relation to the work it did to help nurses to develop a much improved career path and obtain increased pay and improved conditions after long - and, I

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believe, fruitful - consultation. I congratulate my predecessors, the coalition Ministers for health, on that work. I believe the nurses association it right to tell nurses in country hospitals that the Carr Government is doing everything it can to lose the next State election, given its stance on health issues. I believe that whilst those pay and conditions and other issues relating to staff should be protected, those staff who wish to do so should be able to enter into enterprise agreements at a local level. That recommendation was put by the Health Services Association, the major voice for health services providers in New South Wales - in fact the only group. I would have thought that the association's views would be taken on board by the Government and the Minister.

I turn now to clause 126, which provides for the director-general to enter into performance agreements with the area health services and State health services. As stated previously, the association has some concerns

that the applications of performance agreements - in other words, contracts - has to date been a one-way process. The association has recommended that performance agreements provide considerable obligation on the part of health services, with little provision having been made for obligations and responsibilities flowing from the Director-General of the Department of Health, and indeed the Minister. That particularly relates to the issues of an agreement that staff provide a range of services and not close down services, for example, but there is no return obligation to provide sufficient resources to enable staff to carry out their duties. I believe the association was correct in raising that as a matter of concern.

Clause 127 provides for the determination and conditions of the funding of public health organisations by the Minister from money appropriated out of the Consolidated Fund. One of the factors that need not be taken into account by the Minister is the contents of the performance agreements, as I mentioned earlier. The Health Services Association's comment in that regard was ignored by the Minister in the redrafted legislation. I could discuss at length the comments made by the Health Services Association but, suffice it to say, those to which I have referred are merely a few of them. I believe they are important and serious comments and, even if they were not accepted by the Minister, the association had a right to expect feedback as to why they were not acceptable. The Health Services Association may well have accepted that the decision was appropriate, but I assure the House that I contacted the Health Services Association on the day that the Minister introduced the bill and delivered his second reading speech. I asked the association if it was happy with the redrafted bill and the reply was, "We have not seen it. Will you provide us with a copy?"

I left a copy at the Legislative Assembly desk. It was picked up by the association, which had overnight to respond before I received a request from the Minister's office, less than 24 hours later, asking if I was ready to proceed with the bill. How could a body that has an elected chair and an executive be expected to know whether their recommendations had or had not been adopted in the brief time available to it? It is unacceptable. I make a commitment to the Health Services Association and similar organisations that if I were Minister I would not do that. Some other matters that I want to raise relate to an important issue raised by the Australian Medical Association, which has been ignored in the redrafted bill, that is, the ability of the AMA, the Health Administration Corporation and other bodies to negotiate in respect of fees and remuneration issues. This is a complex issue because it is tied up with the Trade Practices Act, and in particular the anti-competitive provisions of that Act.

The Australian Competition and Consumer Commission, ACCC, which is charged with responsibility for policing the Act, has taken a special interest in the medical profession, as the AMA said. The AMA is deemed to be not a body that can be involved in negotiating pay and conditions on behalf of its members. I believe that this matter should have been addressed by the Government but it was not. I have a copy of a letter dated 13 February from Mr Ken Mackey, the Secretary of the Rural Doctors Association of New South Wales. The letter is addressed to Dr Andrew Refshauge, Deputy Premier, and Minister for Health. It thanks the Minister for his invitation to respond to the exposure draft of the Health Services Bill. Dr Mackey says that the Rural Doctors Association generally welcomes the revision of the Public Hospital Act and the extension of area health services to rural areas, but had a number of concerns. Dr Mackey states:

Our association has considerable concerns with the conditions regarding termination of a Visiting Medical Officer's appointment. For rural Visiting Medical Officers their appointment and work in a rural hospital is a major part of their commitment to their own family, the community and health services. If such a commitment was denied or prevented by an ill informed or unreasoning Area Health Board &/or administration then both the Visiting Medical Officers and the local community would be seriously affected. Hence clauses relating to the dismissal and prevention of continuing visiting medical officers duties is inappropriate when a mechanism of appeal, as laid down in the proposed HEALTH SERVICES BILL, can be so drawn out and involves such costly structures . . .

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Dr Mackey raised a second point as follows:

I understand section 112 to mean, for example, that the Rural Doctors Settlement Package, in that it relates to items other than work performed, will still be valid as a contract for service. Paragraph (2) goes on to emphasise that the rights and obligations established by

the chapter on Visiting Medical officers in the Act takes precedence over any regulation or by-law established under the Act that is shown to be inconsistent with the section on visiting practitioners. Your confirmation of such an interpretation would be appreciated.

In other words the Rural Doctors Association sought clarification of an unclear point in the draft exposure of the bill. The third point that Dr Mackey raised in his letter states:

The Rural Doctors Association (NSW) also proposes that prior to any rural hospital closures, consequential alteration in its role or significant down grading that a Community Impact Study or similar in depth and broad examination of all the community issues be compulsorily undertaken and presented to the minister for his attention and consideration.

The Minister invited the association to comment on the bill, but when I spoke to Dr Mackey on Friday he had not had the courtesy of a reply. That is outrageous and again demonstrates that this Minister does not consult. The Council of Social Service of New South Wales - NCOSS - picked up the point expressed by others relating to the lack of consultation and the lack of a voice on how area health services are run, particularly in the country. The submission states:

During 1997, the Council of Social Service of NSW (NCOSS) undertook the Health Consumers Consultation Process which was a consultation with health consumers in NSW to develop a "multifaceted consumer participation strategy." The project was funded by NSW Health and the report is currently with the Minister, awaiting release.

The Opposition looks forward to the report with interest. The submission continues:

The Project found that health consumers want a stronger and more coordinated voice at all levels of the health system. However, for many consumers finding a way to improve consumer participation at area level is a priority. Few Area Health Services have established permanent, area-wide structures for consumer participation. The Project recommended that a structure be established in each Area Health Service to facilitate formal and ongoing consumer access to Area Health Service boards.

Amending the Health Services Bill is one means to improve consumer participation in Area Health Service decision making.

NCOSS has suggested some amendments and I foreshadow that in Committee I will move an amendment. Finally, I refer to the provision in the bill which facilitates transfers of staff within the public health system, thereby avoiding unnecessary redundancies. I was in the Chamber when the Minister delivered his second reading speech. He protested very loudly and said that the assurances given would not be interpreted in a draconian way. At the time I wondered why he spent so much time trying to give those assurances. The bill provides that people can be offered a job a long way from where they currently work, live and have their networks. This provision is nothing but an excuse to avoid paying redundancies: it is an excuse for a Minister who is besieged by budgetary problems and wants to find a way of getting rid of staff without paying for their removal.

If honourable members do not view that provision seriously, they must not know about the redundancy offers being made to staff throughout rural New South Wales. I do not have those details with me, so I will save them for another day. I am contacted regularly by people in the country who have been offered redundancy. When redundancies are offered in the city at, say, the New Children's Hospital - nurses received an invitation to accept voluntary redundancy in their pay packet some weeks ago - the news hits the headlines because it is a city hospital and the local papers pick up on a story that affects people within the bulk of their circulation areas. In the bush the news does not get around so fast.

I assure honourable members that many people are being offered redundancies. This legislation will provide the Government with an excuse to do nothing more than avoid paying redundancies. In Committee I will move one amendment. The principles of the legislation, to bring rural areas into line with arrangements in the city, are supported. The coalition supports the remuneration of board members, which was the direction in which the coalition was heading when it was in government. I assure honourable members that the Opposition does not support the style of this Minister - a person who does not consult or consider the views of local worthy people - or his having control. That is embedded in this legislation. Such people could have provided a

mechanism to allow them to be involved in planning and determining the services to be offered in their local health service areas.

Ms FICARRA (Georges River) [12.38 p.m.]: The object of this bill is to consolidate the provisions of the Area Health Services Act 1986 and the Public Hospitals Act 1929 into a single Act so as to improve the delivery of health services and health support services by the public health system. As the honourable member for North Shore said, the coalition is supportive of the overall thrust of the legislation. If the coalition were in government, Page 2264

legislation would have been introduced to bring rural areas into line with the Sydney metropolitan area in terms of having successful area health boards and making other improvements to the Area Health Services Act.

The Opposition is concerned about the way the Department of Health consults, or does not consult. It sends letters to such organisations as the Australian Medical Association, the rural doctors network, the Health Services Association of New South Wales and the Council of Social Service of New South Wales, it undertakes all this wonderful, proper consultation, but it does not take into account the replies it receives. It does not give feedback on the replies or incorporate the useful suggestions made in them, as outlined in the honourable member for North Shore's dissertation on the bill. That is arrogant. Such arrogance after the release of the exposure draft in 1996 leaves the Government open to criticism, and rightly so. The organisations to which I referred are responsible, professional bodies that can make substantial improvements to, and comments on, health legislation. In his reply the Minister should address the Opposition's concern.

The introduction of area health services in the Sydney, Hunter and Illawarra regions in 1986 was a key achievement of the Health 2000 program in its first year of operation. Twenty-three area health boards were appointed in these urban regions, replacing the numerous hospital boards that had responsibility for managing public health services and the administration of community health services. Area health boards are responsible for managing public hospital services and community-based health services in a defined geographic area, and are rightly subject to the direction and control of the Minister. This function is generally carried out through the department, which allocates funding to the services and is responsible for the provision of comprehensive, balanced and co-ordinated health services throughout the State. The area health system has changed the administration and planning focus of health services from one based on individual hospitals to a more sensible, broad-based focus on the health status and needs of regional communities. It recognises vital services such as health promotion and education, and community health. That is sensible.

Area health boards have acted quickly to implement services networking between hospitals, thus improving the availability and delivery co-ordination of health services. However, the vastness of the area covered by some area health services has been criticised. For example, people in my electorate of Georges River feel that their needs are lost in the vast area covered by the South Eastern Sydney Area Health Service. Many bureaucrats working within the hospital system are critical of the importance of, and political clout in obtaining funding for, other larger hospitals within the region. As a result, St George Hospital has had problems obtaining funding for its accident and emergency services. Indeed, the unit is closed on weekends and has even been closed for up to 40 hours during the week. That is totally unacceptable to the people of Georges River. The Minister for Health, the Chief Executive Officer of the South Eastern Sydney Area Health Service and the General Manager of St George Hospital have been put on notice that the community will not tolerate such closures.

With the help and networking of the three local councils of Hurstville, Kogarah and Rockdale, we will mobilise on behalf of the community and the organisations that undertake most of the fundraising for St George Hospital - the Lamrock committee, the knights of St George, the Cancer Care Lodge committee. Those organisations will fully support a public rally. If the St George Hospital accident and emergency unit is downgraded or touched in any way we will mobilise immediately, as we did when the Minister touted the revolting proposal for St Vincent's Hospital to take over St George Hospital, which was completely rejected. The people of George Rivers are parochial, hostile and feral about their basic services; and there is nothing more basic than accident and emergency services.

An ambulance transporting a person who is suffering a myocardial infarction to St George Hospital might be redirected to Royal Prince Alfred Hospital, and if there is an emergency at Royal Prince Alfred Hospital the ambulance might be redirected to St Vincent's Hospital. The Minister knows that every second that ticks by, the patient loses some left ventricular muscle. That is why we are feral. We will not tolerate any time wasting in treating people who are critically ill, particularly those suffering heart disease or a myocardial infarction. Most other emergencies can be dealt with professionally by paramedics and intensive care ambulance officers, who do a wonderful job and are a credit to our health system. If a person is bleeding they can do fluid resuscitation, and many other procedures. However, the Minister for Health knows that they can do only so much for a person suffering a heart attack or a myocardial infarction. The people of St George will do anything to protect their services.

St George Hospital, which has teaching hospital status, has a terrific trauma unit and a great
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cardiac catheterisation unit. It has all the necessary facilities. The people of Georges River want to be treated in their hospital. This bill amends the existing law by extending the area health services system from metropolitan Sydney, Wollongong and Newcastle to the whole State to provide a more effective base for the planning and delivery of health services. The regional networks of health services have existed for some time in rural New South Wales. This bill provides a statutory framework for these networks by extending area health systems to rural New South Wales, based on the same geographical areas as currently exist, and providing an efficient base for health service delivery planning. This will equate to a greater response to rural community health needs only if the Minister appoints highly professional and apolitical, caring chief executive officers to the area health services. The Opposition will continue to monitor those appointments. The appointment of chief executive officers should be taken out of the Government's hands and made on a professional basis.

This bill does nothing to improve the Government's commitment to community participation in the health system. The Council of Social Service of New South Wales has stated publicly - the honourable member for North Shore referred to this in her speech - that this bill was an opportunity to involve local communities in the planning and delivery of area health services. NCOSS has publicly criticised the Government for not taking advantage of that opportunity, and that is why in Committee the coalition will move an amendment that has the support of most health-care organisations. I am sceptical about the Carr Government's willingness to allow more informed public scrutiny of its dismal performance thus far in terms of waiting lists, waiting times and appropriate resource allocation in step with local community needs.

The Government has not provided for that in the bill because the Minister knows that he is already in enough hot water. He knows that the system will be a failure by March 1999, so why should he have more community participation? The Minister has received a roasting thus far. The provisions in clause 116 will facilitate the transfer of staff within the public health system and avoid unnecessary redundancies. A mechanism will be established to enable staff to be redeployed to a suitable vacancy in another health organisation. Clause 116 provides for employees to refuse a transfer for valid reasons without suffering any future employment backlash. What are valid reasons? The provisions are vague. If a chief executive officer does not like an employee or has been instructed by the Minister to reduce expenditure, or promised funding has not been provided, what are the easiest ways to cut staff? Who will say what is valid and what is not valid? It is very arbitrary.

The health unions do not support this bill; they are afraid of what is behind it. The bill provides that termination of employment is still possible if there is no valid reason for refusal. That provision will be used. There are numerous examples of the employment of health service employees being terminated in rural areas. The Minister said in his second reading speech that termination of employment may be challenged in the Industrial Relations Commission; but that creates completely unnecessary hardship for people and their families. This mechanism appears to be wonderfully balanced when you see it in black and white, but it will be a convenient mechanism to get rid of employees who have been victimised for spurious reasons, sometimes because of personality clashes with divisional heads and chief executive officers.

The Government said the provisions in the bill are the same as those that apply to the transfer of public

servants generally. It should be monitored, particularly in the lead-up to the election, when funding will be severely cut. The Government said that the aim of the bill is to avoid unnecessary redundancies. Will the Minister tell us in his reply whether health unions support him? The Government said that displaced staff will have employment priority over new applicants, and so they should. Displaced staff should be found new jobs in close proximity to their homes, not hundreds of kilometres away, as can happen in rural areas.

The Minister claimed in his second reading speech that the bill has been the subject of substantial consultation with organisations within the public health system, yet the three key health organisations - the Health Services Association, the Rural Doctors Association and the Australian Medical Association - submitted comments and recommended about 56 changes to the exposure draft, 47 of which were ignored. Some did not even rate a comment from the Minister. In his reply will the Minister please justify ignoring them? The overwhelming criticism, particularly from the Health Services Association, relates to centralisation of authority within the department and the Minister. Concerns are often raised about the lack of community involvement, the lines of accountability and the ability of the Minister to direct area health services to provide health services without any financial responsibility to fund them.

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I praise the Health Services Association for its highly critical and detailed submission. The Council of Social Service of New South Wales has argued in support of developing strategies to facilitate community involvement in planning health services and providing a mechanism for each area health service to report annually to the Minister on the implementation of those strategies. In general the coalition supports the overall thrust of the legislation. However, it is highly sceptical about redundancies and transfers of employees, and it is highly critical of the lack of community involvement. The Government has missed a great opportunity.

Dr REFSHAUGE (Marrickville - Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [12.53 p.m.], in reply: I cannot allow this outrageous attack on former Premier Greiner to go unchallenged. It was Premier Greiner who introduced the Public Sector Management Act, which the voluntary redundancy provisions in this bill mirror. I know members of the Opposition love to dump their history; they love to say they have no history. There are no monuments to Robin Askin; the Opposition is not proud of its history. But the Government is prepared to stick with some of the provisions of the Public Sector Management Act, as reflected in this bill, and the Opposition does not like that. The Government is prepared to take a bipartisan approach, despite the fact that the Opposition will pick on anything at all to throw away its past.

The honourable member for North Shore said that Dr Ken Mackey, of the Rural Doctors Association, did not receive a reply from the Government. In fact, a reply was sent to him in March this year. His questions were answered specifically. I have a copy of the letter that was sent to him. I know the honourable member for North Shore likes to get her facts right, so she should check again. The Health Services Association organised a meeting with the department to discuss the Government's responses to its suggestions on the legislation. It received a response from the Government agreeing or disagreeing with its suggestions. The Opposition said the Government ignored the association; it was not ignored.

Regular meetings were held with the association and with chairpersons of boards, members of boards and chief executive officers, all of whom are eligible to be members of the Health Services Association. The Australian Medical Association and the Rural Doctors Association have been consulted and have received a formal response to their suggestions, either by letter or face to face. Let us be rid of this nonsense that there was no consultation. They knew exactly what the Government was doing and their concerns were specifically answered.

It is fascinating that the honourable member for Georges River totally disagrees with the honourable member for North Shore. The honourable member for North Shore said control is too centralised and that local areas should make their own decisions. The honourable member for Georges River said that her local area cannot manage, that it is not allowed to touch St George Hospital in any way, and that the Minister must intervene. Who is the spokesperson for the Opposition? Is it the honourable member for Georges River, who

says she is putting the Government on notice and that I, as Minister, must intervene; or is it the honourable member for North Shore, who says the Government is not allowed to intervene and it should be left to the local area?

It is impossible to get any sense out of the Opposition, because it does not know what it stands for. If the Government removed the reserve powers of direction - and the honourable member for Georges River would go troppo and rip the throat out of a potential conservative Minister - the result would be that area health services could do as they have done in the past and refuse to provide an auditor with documents. That is what happened under a former conservative government, and those reserve powers had to be used to force that area health service to provide information.

The honourable member for North Shore wants to wipe out the reserve powers of direction to allow a recalcitrant area health service not to provide information for an external audit. How would she remove the reserve powers without the power of direction by the Minister? She has suggested no other alternative but to let area health services do what they want to do. Let them roll the honourable member for Georges River if she is suggesting that should happen. She has not suggested anything about how to cope with that issue. All the negative, carping Opposition does is whinge and complain. It has no idea of direction; and it is split within its ranks.

The honourable member for North Shore said effectively that she would increase the number of staff on area health boards by one, to allow the appointment of a visiting medical officer. The by-laws provide that the medical staff council appears at board meetings on issues that are directly related to visiting medical officers. The medical staff council can and does appear at the board level. The

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honourable member for North Shore did not say whether that is good or bad but she took the time to point out that the Australian Medical Association wants it. Why would she say that unless she was going to support it? She also said that chief executive officers should be appointed by the board. The former Government had seven years to change that, and it did nothing. The honourable member for North Shore either supports the bill or she does not.

[Interruption]

She is now interjecting and claiming that she is not supporting it. Why is she wasting the time of the House? She also criticised the Minister having the power to dismiss a board for an indefinite period. What did the Deputy Leader of the Opposition do when he was the Minister for Health and sacked the board of the Hunter Area Health Service? He dismissed it for an indefinite period, and it was not replaced for some time. Neither he nor I wanted that to go on forever. We shared the views that the health service should have had a board. However, the former Government had the opportunity to fix this problem if it wanted to, but it did nothing.

Debate adjourned on motion, by leave, by Dr Refshauge.

[Mr Deputy-Speaker left the chair at 1.00 p.m. The House resumed at 2.15 p.m.]

DAYS AND HOURS OF SITTING

Ministerial Statement

Mr WHELAN (Ashfield - Minister for Police) [2.15 p.m.]: For the information of members I advise that the Legislative Assembly will not sit tomorrow. The House will adjourn tonight at approximately 10.30 p.m. until 2.15 p.m. on Tuesday, 25 November.

PETITIONS Greater Murray Area Health Services

Petition praying that in the Greater Murray health service area the hospital boards and local autonomy be

restored, the local hospitals and community health centres not be further downgraded, the provision of specialist services to country areas be expanded, and the planned private hospital in Griffith be constructed, received from **Mr Cruickshank**.

Camden District Hospital

Petition praying that the maternity ward and birthing centre at Camden District Hospital be retained, and that the hospital be retained as a general hospital, received from **Dr Kernohan**.

Israel Heroin Addicts Program

Petition praying that the heroin addicts program in Israel be evaluated with a view to establishing a similar program in all States of Australia, received from **Mr Schultz**.

Ryde Hospital

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

Police and Community Youth Clubs

Petitions praying that, in line with the Inspector General's report of 1993, permanent dedicated police officers be retained at police and community youth clubs, received from **Mr Beck** and **Mr Blackmore**.

Homebush Railway Station Restoration

Petition praying that buildings on Homebush railway station platform 3/4 that were damaged by fire in 1994 be restored in accordance with heritage requirements, received from **Mr MacCarthy**.

Transmission Structures

Petition praying that telecommunication carriers not be allowed to erect transmission structures within close proximity to residential homes, schools, child-care centres, hospitals, and aged-care centres, received from **Mr Brogden**.

Northside Storage Tunnel

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

Cudgen Lake and North Cabarita Beach

Petition praying that the draft plan of management for Cudgen Nature Reserve be varied to ensure the continued use of Cudgen Lake and North Cabarita Beach for existing recreational

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purposes, the improvement of the tidal flow into Cudgen Lake, and the removal of recent reed growth from Cudgen Lake; or, that Cudgen Lake and the portion of North Cabarita Beach east of the Coast Road that is sandmined be removed from Cudgen Nature Reserve, received from **Mr Beck**.

DISTINGUISHED VISITORS

Mr SPEAKER: I draw the attention of members to the presence in the gallery of a distinguished delegation from the Tokyo Metropolitan Assembly led by its Vice-President, Mr Nobujiro Maejima. I welcome them to the New South Wales Parliament. I have advised the delegation of the quality of the membership of this

Parliament. I am sure that the conduct of members today will prove me correct.

I recognise also in the gallery the Hamilton Probus Club from the Newcastle electorate, students from the Holy Family primary school at Parkes and students from year 6 at St Ignatius College, led by Mark, whose mother is the honourable member for Lane Cove.

REGULATION REVIEW COMMITTEE

Report

Mr Shedden, as Chairman, tabled report No. 12 entitled "Report upon Principal Statutory Rules in Stages 11 and 12 of the Staged Repeal Programme under the Subordinate Legislation Act 1989", dated November 1997.

Ordered to be printed.

PUBLIC BODIES REVIEW COMMITTEE

Report

Mr Neilly, as Chairman, tabled the report entitled "Regulation of Competitive Tendering and Contracting in the New South Wales Public Sector", dated November 1997.

Ordered to be printed.

QUESTIONS WITHOUT NOTICE

MINDA YOUTH CENTRE ESCAPE

Mr COLLINS: My question without notice is directed to the Premier. How was a 16-year-old youth facing charges of armed robbery and culpable driving able to get a gun into Minda Youth Centre and escape yesterday afternoon? Does the fact that he was placed in a minimum security detention centre despite facing serious charges highlight yet again the total inadequacy of the Minister and the Premier's law and order policies?

Mr CARR: The Liberal Party had a fundraising event last night in the parliamentary staff dining room. One would have thought its leader would have been present. He was glimpsed walking around the Domain by himself.

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

Mr CARR: Given the award presentation that I attended last night with my colleague, I thought that the last person to interject today would be the honourable member for Ermington. Of course I am gravely concerned about yesterday's events at Minda Youth Centre. The Minister for Community Services has ordered a review of the escape. That review will include the creation of a task force of senior officers from the Department of Corrective Services to investigate the placement system and physical security of New South Wales juvenile detention centres. The Queensland Government urgently requested the assistance and expertise of these same officers to investigate the recent break-out of five violent criminals from the Sir David Longland centre.

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

Mr CARR: The task force will report back by mid-December.

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

Mr CARR: Opposition members should wait until they are outside the House before undermining the Leader of the Opposition. Don't they think it is unbecoming? They are organising numbers in the House during question time. It lacks the dignity that our friends from Japan would expect in Australia's oldest Legislature.

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

Mr CARR: The task force will report back to me by mid-December. It will work with the newly appointed Serious Young Offenders Review Panel, chaired by former Chief Magistrate Ian Pike, to
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review the placement and assessment system made for juveniles facing serious charges, particularly for crimes involving violence. It will review the physical security in the State's juvenile detention centres; it will review procedures to improve staff safety; it will have an ongoing supervisory role -

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

Mr CARR: - in the development of security systems for the new juvenile justice centres being built, including the use of electronic surveillance; and it will investigate appropriate intensive management regimes for high-risk detainees, and review escort procedures. The changes that this Government has made to maximum security adult prisons in New South Wales have put them at the cutting edge of security systems and operations. As at October this year New South Wales prisons have recorded an historic low in prison escapes.

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

Mr CARR: The task force I have created will especially be of assistance to the juvenile justice system to improve its classification system and physical security. The Government has commenced a \$60 million reconstruction program for juvenile detention centres. The previous Government spent no money on juvenile detention centres - not a cent. This Government is spending \$60 million rebuilding these centres.

Mr SPEAKER: Order! If Opposition members wish to discuss tactics, they can do so outside the Chamber. Whilst an answer is being given members will remain silent.

Mr Phillips: We need to discuss tactics.

Mr SPEAKER: Order! If Opposition members wish to discuss tactics during question time, they can do so outside the Chamber.

Mr Phillips: But, Mr Speaker -

Mr SPEAKER: Order! I place the Deputy Leader of the Opposition on a second call to order.

Mr CARR: I am relieved that Opposition members are beginning to discuss tactics. I was beginning to worry. At last Opposition members are discussing tactics - a welcome development. The coalition has been in opposition for 2½ years and at last it is discussing tactics.

Mr Hartcher: On a point of order. First, the Premier said that the Japanese function in the staff dining room was a Liberal Party function, when it was a parliamentary function.

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

Mr Hartcher: More significantly, the Premier is canvassing your ruling about dialogue on the Opposition

benches and about tactics, which are going to bring down the Government very soon.

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

Mr CARR: I am reassured that the honourable member for Gosford is denying that he has any tactics. A sum of \$23 million is being spent this year on both the construction of new centres and the upgrading of security in older centres. Minda Youth Centre will be closed as soon as two new centres at Dubbo and Grafton are completed, which is scheduled for March 1999. This gives me a great opportunity to congratulate once again the honourable member for Clarence on securing for his city one of those centres and the jobs that go with it. That is terrific.

Mr Photios: On a point of order. The question asked was very clear. It asked how a youth smuggled a gun into and then smuggled himself out of -

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

Mr CARR: Last night I presented an award at the RSPCA to a very brave dog named Anzac. Anzac is a very fine dog, and I am proud to call him a friend of mine. The honourable member for Ermington is no Anzac.

RACING INDUSTRY FUNDING

Mr ARMSTRONG: I ask the Premier whether he has offered a \$70 million sweetener to the racing industry to save the Government's TAB privatisation from collapse. Now that negotiations have bogged down, why will the Premier not honour his original agreement with the racing industry?

Mr CARR: First, no; second, they haven't; third, doesn't apply.

CAPSICUM SPRAY USE BY POLICE

Mr WATKINS: I ask the Minister for Police what new equipment is to be made available to New South Wales police to help them in potentially violent situations.

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Mr WHELAN: Everyone knows that police could face a life-or-death situation at any time. With only a moment's notice, they could be forced to make a split-second decision about the use of lethal force against a violent or dangerous offender. In a split second, police have to decide how best to protect themselves, the community and the offender. Fortunately, situations in which the police are left with no alternative to lethal force are rare. Police have a difficult and dangerous job and deserve our complete support. The Carr Government wants to ensure that New South Wales police have the most up-to-date equipment to deal with life-threatening situations.

Today on behalf of the Carr Government I am pleased to announce that for the first time New South Wales police will have capsicum spray to defuse dangerous conflict situations. Capsicum spray will give police what they need to defuse dangerous situations and save lives - theirs and others. All police on patrol will have access to the spray. Extensive research by the national police research unit has concluded that capsicum spray is the best way for operational police to subdue dangerous offenders, other than using lethal force. In fact, in Portland, Oregon, in the United States, police experienced a 66 per cent decrease in officer injuries after capsicum spray was introduced. For offenders, there was a 92 per cent decrease in injuries and an 83 per cent decrease in complaints about the use of excessive police force.

Closer to home, in Victoria, eight police stations were involved in a trial of capsicum spray last year. The spray was used 37 times in potentially violent situations. The offenders were sprayed in the eyes from a safe distance. Those potentially violent situations included sieges, attacks on police, domestic violence, attempted

suicide, and other situations of potential self-harm. Victorian police have concluded that capsicum spray saves lives. They are now in the process of introducing the spray statewide. While painful, the effect of capsicum spray is only temporary. The spray is a liquid pepper extract that causes the eyes to water excessively and forces them to shut. It causes coughing, shortness of breath and loss of co-ordination.

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

Mr WHELAN: The most severe symptoms last up to three minutes.

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

Mr WHELAN: The eye irritation lasts up to 15 minutes. Within an hour the offender has fully recovered. Police can safely use capsicum spray over a distance of four metres. Its effect is comparable to the sensation of spraying a chili pepper straight into one's eyes. Despite the short-term effects, capsicum spray is clearly preferable to the alternative - lethal force.

Mr SPEAKER: Order! The Chair is having difficulty hearing the Minister over the noise emanating from the Government backbench. Members will cease conversing in the Chamber.

[Interruption]

The Chair needs no assistance from Opposition members. If members do not remain silent whilst the Minister is giving a detailed answer they will be placed on three calls to order.

Mr WHELAN: Capsicum spray will give the police what they need to defuse dangerous situations and save lives - theirs and others. The New South Wales Police Service plans to make capsicum spray available to police on patrol next year.

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

Mr WHELAN: Before that time all operational police will need to undergo comprehensive training. This decision is an important step in the ongoing development of a thorough and world-standard policy on the use of force by the New South Wales Police Service. It follows a six-month comprehensive review under the command of Deputy Commissioner, Special Operations, Jeff Jarratt of the methods available to police for resolving high-risk incidents. The Government has consistently resolved many of the outstanding matters related to police officer training. Those matters include the provision of bullet-resistant vests for first response police, the replacement of outdated side-arms and the elimination of police radio black spots. National and international research has shown that capsicum spray saves lives, defuses violent situations and protects the community, the offender and the officer involved. In New South Wales it will, of course, remain classified as a prohibited weapon which is available only to police.

GREENHOUSE GAS EMISSIONS

Mr ROGAN: My question without notice is directed to the Premier. What steps has the New South Wales Government taken to help to reduce greenhouse gas emissions?

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Mr CARR: While the Prime Minister proposes to convert a further 2 per cent of Australia's electricity generation to renewable sources - but not until 2010 - the New South Wales Government is going a great deal further, and a great deal faster. The Prime Minister is a modest man and he has set a modest target. In New South Wales the Government is proud to have received the Australian Conservation Foundation award in 1996 for doing most on greenhouse.

Mr Hazzard: You and Anzac are doing well.

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

Mr CARR: The shadow minister is offering his congratulations, which is very generous. I am sure that *Hansard* will record that for future reference. If the Prime Minister is watching television at home on Sunday night, he will see an interesting advertisement funded by the Government, an advertisement that will persuade Australian people to nominate a renewable energy source through their electricity retailers.

Mr Souris: Are you in it?

Mr CARR: No, I am not in it.

Mr Hazzard: On a point of order. You have previously ruled that no member is to use props of any type in the House. In accordance with your previous direction I ask you to direct the Premier not to use props,.

Mr SPEAKER: Order! There is a difference in the way that objects may be used in the House. It is in order for the Premier to hold a videotape.

Mr CARR: This is the first occasion that I have held aloft a cassette tape during question time since 1994, when we had the cassette of the predecessor of the Minister for Corrective Services, the member for Blue Mountains. Do you remember that? "I blow up your place, I blow up your place, goodbye, ho ho, goodbye."

Mr Hazzard: On a point of order. The Premier is now using a prop in a purely political context rather than in relation to the issue of substance before the House. I ask you to direct him to use of the prop in accordance with the specific direction you gave.

Mr SPEAKER: Order! The Premier will return to the answer.

Mr CARR: Our Japanese visitors will understand because the Governor of Tokyo is a former television actor. They would appreciate the qualities that Barry Morris brought to this House. Let me return to greenhouse.

Mr Phillips: On a point of order. There is a growing tendency, particularly by the Premier, to converse day after day with visitors in the gallery. That is in contravention of the standing orders. He is not here to entertain and converse with people in the gallery. He is here to answer questions - and the Opposition would appreciate an answer to just one question!

Mr SPEAKER: Order! The Premier will return to the answer.

Mr CARR: What a bunch of cry-babies! Whingeing sooks! They are taking their lead from the Leader of the Opposition. Cry-baby performances! We are too rough with them, we are too tough with them! For goodness' sake, let us come back to greenhouse. The Government is driving this advertising campaign on the advice of the Sustainable Energy Development Authority to get industry and consumers to make better use of energy. It has come up with programs to help a range of companies use energy more efficiently.

Mr Souris: You're such a greenie!

Mr CARR: The Deputy Leader of the National Party says, "You're such a greenie." We are a green government; we are conservationists. Unlike Howard's Government, the New South Wales Government does not attack the environmental movement. The Government works with it to achieve great objectives. I am very proud that the Australian Conservation Foundation gave the New South Wales Government the award for doing better on greenhouse than any other government in Australia.

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

Mr CARR: I can announce today that more than 11,400 households have already said to their electricity distributors, "We will pay a bit more to have power that has been generated from a renewable energy source like solar, wind or hydro." In coming weeks these new television commercials will be screened during movies, the news, top-rating sitcoms and game shows - in other words, the sorts of programs watched by members of the Opposition. The Government's aim is to have 140,000 households signed up for green power by the end of 1999.

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

Mr CARR: Many businesses are also buying green power. Those businesses include Westfield shopping centres. As a result, electricity retailers have recently announced approximately \$26 million worth of investment in renewable energy projects. Those projects include the southern hemisphere's largest solar energy farm at Singleton and two solar power stations, one at White Cliffs and the other near Queanbeyan. Next week the honourable member for Port Jackson will commission a new 600 kilowatt wind generator at Newcastle.

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

Mr CARR: Get it all out of your system! Does anyone else have anything to say? The honourable member for Lane Cove - a helpful comment perhaps?

[Interruption]

Perhaps she will next put on the record that under no circumstances will she challenge the Leader of the Opposition. When she has been asked to do that this week, she has ruled it out. What a display of leadership! She is refusing to rule out a leadership challenge. That is why I asked the Leader of the House to call off Parliament tomorrow. Let her organise! Give her a day away from the House so she can get on the phone. Clean technologies are becoming commercially viable. It is not a choice between jobs or the environment. We can have both, and the New South Wales Government is showing the way.

MANNINGS FUNERAL HOME PTY LTD

Mr TINK: My question is directed to the Premier. Did Alan Jones warn the Government on air this morning about Mannings funeral company obtaining a \$1 million contract to transport bodies to Glebe morgue when it had previously admitted bribing morgue employees? Why did the Premier not act on that warning, stop the contract and immediately refer the matter to the Independent Commission Against Corruption?

Mr CARR: He's a little charmer, isn't he! He is working on a surprise leadership challenge, using the member for Lane Cove out in front and hoping to steal the prize himself. He is the stalking horse. I am not aware of any warning that Mr Jones issued on this matter.

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

Mr CARR: Aren't they a vulgar lot! I am not aware of and I have not seen such a warning. I understand that the matter is before the Independent Commission Against Corruption, where it should be. If there are allegations about impropriety in a contract, that is where it should go.

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

Mr CARR: Where was the warning? When was the warning issued?

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

Mr CARR: I think the member for Eastwood is the next leader. He is laughing. Every time cry-baby is being undermined, the member for Eastwood has been smiling. Even by the sickening standards of the New South Wales Liberal Party, the undermining of the Leader of the Opposition is sickening. We hate to confront it, we just hate it. It is such an appalling, tasteless exercise, a shoddy exercise to have to watch day in, day out. The member for Eastwood has a decent little leader. Why doesn't he get behind him and give him some support?

HOME BUSH BAY HOTEL COMPLEX

Mr NAGLE: My question without notice is directed to the Minister for the Olympics. What progress has been made on the development of a hotel complex at Homebush Bay?

Mr KNIGHT: I commend the honourable member for his continued interest in the Olympic site at Homebush. It gives me great pleasure to inform the House that the Government has selected the consortium to construct, finance and operate a 318-room hotel to be built at the heart of the Homebush Bay Olympic precinct. After an exhaustive assessment process, a consortium led by Accor Asia Pacific and Lend Lease has been selected as the State Government's preferred proponent for the \$61.8 million project. Accor is the biggest hotel operator in the world. Its professionalism was reflected in the quality of its bid.

Mr Collins: No bed tax there!

Mr KNIGHT: Don't you interject! I am actually on the side of the Leader of the Opposition. I want him to remain as leader; he is my preferred candidate. We all want you to be the Leader of the Opposition. Peter, you're our man! I am confident that professionalism and commitment to quality will

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be evident in its hotel development at Homebush Bay. The hotel will have two towers offering different standards of rooms to provide a broad range of accommodation. The 19-level Novotel tower will have 168 four-star rooms, and the nine-level Ibis tower will have 150 three-star rooms, including 40 budget rooms with bunk-style accommodation.

The hotel will include four functions rooms, a ballroom, an upper level observation deck, coffee shops, bars, restaurants and parking for 150 cars. It will become a significant feature of Homebush Bay, as it is located on the highest point of the Olympic Boulevard near the Olympic stadium, the Olympic park railway station and the Sydney showground. Like every major project at Homebush Bay, the final design must be approved by the design review panel of the Olympic Co-ordination Authority. That panel is chaired by Chris Johnson, the Government Architect. The panel also includes a group of prominent architects.

The hotel development will set new environmental standards for high-rise hotel accommodation. The proposal includes initiatives designed to reduce the consumption of energy by 40 per cent, to reduce the use of potable water by 50 per cent and to minimise waste. Design features include the installation of one of Australia's largest commercial solar hot water systems. The hotel will also have a system which automatically cuts the power to the air-conditioning in individual rooms when windows are opened. The Premier spoke earlier today about the benefits of buying green power, and I am pleased to be able to tell the House that there is a commitment by the consortium to buy 100 per cent green power for the next 10 years. That involves the use of power derived from renewable energy sources such as solar power.

There will be 200 jobs created during construction of the hotel, and 225 full-time employees will be required to operate the hotel when it opens. A development application for the hotel will be submitted when negotiations have been finalised between the OCA and the Accor/Lend Lease consortium. The consortium will have a 99-year lease of the hotel land. During the period of the Olympics and Paralympics the hotel will be used for accommodation of Games officials. Apart from those involved with the Olympics and Paralympics, the hotel will provide a range of accommodation for sporting teams competing at the magnificent venues at Homebush

Bay. The hotel will be a significant factor in attracting national and international sporting events to Sydney. In addition, the hotel will offer a convenient place to stay for country people during the Royal Easter Show and other events that people from the country will enjoy attending at Homebush. Construction is expected to start in May 1998, with the hotel due for completion and opening in early 2000.

M5 EAST EXTENSION

Mr SOURIS: My question is directed to the Minister for Roads. Is the Minister giving consideration to borrowing as much as \$700 million to fund the construction of the M5 East? How will this massive increase in debt reconcile with the Government's debt reduction strategy, and the Minister's previous assertions that the M5 East could be funded from within the roads budget?

Mr SCULLY: I have been sitting here for weeks on end trying to get a question on roads, and I am delighted to finally have one.

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

Mr SCULLY: The Deputy Leader of the National Party should tell the people of western Sydney what he has been saying internally in his own party. If this crowd gets elected, guess what will happen on the M5 East? A toll! That is what the shadow minister for roads told the Parliament.

Mr SPEAKER: Order! I call the honourable member for Ku-ring-gai to order. I call the honourable member for Ermington to order for the third time. If the Deputy Leader of the National Party interjects again he will be called to order.

Mr SCULLY: These two characters do not talk to each other. The shadow minister for transport now says there will be no toll and the other day the shadow minister for roads said there will be a toll. What is the policy of the Opposition?

[Interruption]

The Premier is right. The Deputy Leader of the National Party has no right to ask me a question about financial management. He is the man who, just for fun, got rid of \$50 million on the knock.

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

Mr SCULLY: The shadow minister for roads has the gall to ask me a question about the financing of the M5 East. He is a financial joke!

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Mr Photios: On a point of order. My point of order relates to relevancy. The issue at hand is whether or not the Government is going to borrow \$700 million. Is the answer yes or no?

Mr SPEAKER: Order! Before the Minister continues his answer, I warn the honourable member for Ermington that on a previous occasion he was directed to resume his seat because his point of order had no relevance to standing orders. Standing orders do not allow him to repeat the question. If he continues in that manner he will be removed from the Chamber.

Mr SCULLY: I give an absolute guarantee, on behalf of the Government, to the people of western Sydney that there will be no toll on the M5 East. The people of western Sydney are paying enough and they will not pay any more. A few Cabinet Ministers represent electorates in western Sydney. They will take great pleasure in telling their constituents that the coalition will impose a toll in western Sydney.

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

Mr SCULLY: The question is: where is the money coming from? That is a fair question. The project will cost about \$600 million and the funding will come from the roads budget over a three-year period. The project will not impact on the roads program. The Deputy Leader of the National Party is the man who has expressed concern to the people of Bardwell Park, Turrella and Arncliffe. The honourable member for Rockdale has been a champion for the people of Bardwell Park and Arncliffe.

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

Mr SCULLY: The honourable member for Rockdale is a hero to the people of Bardwell Park.

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

Mr SCULLY: The shadow minister for roads should be telling the people of Arncliffe and Bardwell Park that the Government has made substantial amendments to the M5 East because of the representations from people such as the honourable member for Rockdale, the honourable member for Canterbury and the honourable member for Hurstville.

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

Mr SCULLY: The coalition's solution to the three stacks to one, to going under King Georges Road, to providing east-bound access off Kingsgrove Road, and to providing a property guarantee to those who live above the tunnel is to provide a toll and to tell the people of New South Wales the M5 East cannot be funded without the imposition of a toll. This is an important road network. The shadow minister for roads talked about his understanding of the Sydney orbital network. I see the honourable member for Bligh, a great supporter of the Eastern Distributor, in the Chamber. The Eastern Distributor must be connected to the M5. The M5 East is an essential part of the road network. I will not apologise for saying that funding will be allocated over a three-year period. The M5 East, which will be built before the Olympics, will provide an essential traffic connection for those living in south-west Sydney and the industries in south-west Sydney who need to connect with Sydney, the airport and the port.

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

Mr SCULLY: Is the shadow minister for roads saying that under a coalition government there will be a toll, or is he saying that the M5 East will not be built if he cannot get Cabinet approval for a toll? The Government will build the M5 East and it will have not have a toll.

PETER BOARD HIGH SCHOOL CLOSURE

Mr O'DOHERTY: My question is addressed to the Minister for Education and Training. Has the Department of School Education informed parents that Peter Board High School will close, despite the Minister's announcement in August that it would remain open? Has the Minister's failure to take leadership on this issue caused an additional 12 months of uncertainty and trauma for staff and students?

Mr AQUILINA: The only failure in leadership in this Chamber is the failure of the Leader of the Opposition. I met with parents of students at Peter Board High School in August. At that stage concern was expressed about the rumour that the school would close at the start of 1998. I gave an assurance to the parents at that time that the department had already received notification of 18 students to be enrolled in year 7 at Peter Board High School in 1998, and that the school would remain

open to provide me with an additional opportunity to canvass with parents the various options relating to the future of the school. At that time I gave an undertaking in a press release dated 19 August, in which I said that a meeting would be held later that week to fully brief interested parents and friends on the department's findings on the options to secure the best education for all local children. I made a big mistake: I actually gave an undertaking to consult parents.

Mr O'DOHERTY: I ask a supplementary question. Was a banner placed on the school fence by parents to promote enrolments at the school removed and confiscated?

Mr AQUILINA: The honourable member for Ku-ring-gai may know what is happening at every school, but I have no knowledge of that matter.

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

INTRASTATE AIR SERVICES DEREGULATION

Mr WOODS: My question without notice is addressed to the Minister for Transport. What is the Government's reaction to the recommendations in the Independent Pricing and Regulatory Tribunal report on intrastate air services?

Mr LANGTON: The report of the inquiry conducted into New South Wales intrastate air services by the Independent Pricing and Regulatory Tribunal recommended that intrastate air services be deregulated from May 1999. IPART found that the current objectives of air service licensing were unclear and that licensing was ineffective in delivering economic or social benefits. The Government is not opposed to regulation when it delivers the intended benefits to industry and consumers - for example, the Passenger Transport Act. However, when a regulatory environment in an industry is not only failing to deliver its stated benefits but is serving to defeat them, it must be seriously reconsidered.

Licensing of intrastate air services was intended to prevent monopolies and to guarantee services on all routes. It has achieved neither of those goals. Indeed, it has created a situation in which monopolies in the industry flourish. Even more important, licensing does not provide a guarantee of service. Licensed operators are not obligated to deliver a service. IPART confirmed that the current arrangements are unable to provide benefits to the community over and above those that would be available without the scheme. That is the best case scenario. In reality, however, there is a considerable risk that licensing worsens outcomes. The Air Transport Act works against the interests of customers, especially rural people who rely heavily on air travel to Sydney. I have previously said that the most cumbersome aspect of the existing Act is that it does not guarantee the provision of air services on lightly patronised routes or, indeed, on any routes.

Mr SPEAKER: Order! The honourable member for Ermington, having been called to order three times, I direct the Serjeant-at-Arms to remove him from the Chamber.

[The honourable member for Ermington left the Chamber, accompanied by the Serjeant-at-Arms.]

Mr LANGTON: The Act does not enforce cross-subsidies. The kindest thing that could be said about the licensing regime is that it validates outcomes that would have occurred without the licences. No further evidence of this is required than the instance in 1991 when one major operator quickly withdrew services from 14 of the smallest routes in the State. Those routes were Nyngan, Brewarrina, Coonamble, Walgett, Lightning Ridge, Bourke, Coonabarabran, Gunnedah, Cowra, Forbes, Cootamundra, Young, West Wyalong and Condobolin. The response of the then coalition Government was to remove licence restrictions on those routes, with the result that alternative operators moved in to supply a service. In effect, the former coalition Government deregulated those 14 routes. The result was that there was no instability in the industry and no loss of service. The disservice the present system is doing -

Mr Armstrong: On a point of order. Clearly, the Minister is under some pressure, but he is simply telling

an untruth. Cowra is a regulated route. It is that simple.

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

Mr LANGTON: To support the current licensing scheme is to inflict the most expensive regional air fares in the country on people in rural New South Wales. Some honourable members opposite, including the honourable member for Ermington, have already signalled their opposition to deregulation, but I note that the coalition does not have a consistent policy. In fact, on 6 June the honourable member for Bega wrote to me and to the Air Transport Council regarding the drop in service levels proposed by one major operator on a regional route. In his letter to me he said:

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Because of this proposed cut in the service . . . I believe it is now time that we moved to **full deregulation**, as is the case with most other States.

I thank him very much for that. He referred a copy of his letter to both the Leader of the Opposition and the honourable member for Ermington. I wonder whether they replied to him? The Government has a clear resolve to repeal an outdated Act which cannot enforce service levels on licensed routes and will give sufficient lead time to allow the air services industry to prepare for deregulation. For those reasons the Carr Government will adopt the recommendation of the Independent Pricing and Regulatory Tribunal to deregulate the air services industry in New South Wales.

PIG MEAT IMPORTATION

Mr NEILLY: I address my question without notice to the Minister for Agriculture. What will the Federal Government's decisions to allow increased imports of pig meat mean for New South Wales producers?

Mr AMERY: The decision by the Federal Government to allow unimpeded imports of pig meat from Canada and Denmark could not have come at a worse time for the pork industry in this country. Pig producers traditionally experience an increase in pig prices before Christmas, as demand for the product increases. But that is not so this year. In fact, for the first time in living memory the price of pig meat to farmers has actually fallen in the lead-up to Christmas. This will have a severe impact on the industry Australiawide.

It should be borne in mind that the decision by the Federal National Party Minister was met with not one comment from his counterparts in New South Wales. They will white-ant the Leader of the Opposition but when their National Party cohorts in Canberra do something against their constituency they remain silent - as silent as the honourable member for Lane Cove was when the Premier mauled the Leader of the Opposition day after day. It is sad to see that the once-great National Party has deserted its constituency at a State and Federal level.

Mr Fraser: Don't tell porkies.

Mr AMERY: The honourable member for Coffs Harbour thinks that because he has a head like a spark plug he is some kind of champion. The higher Christmas prices normally mean the difference between a profit and a loss for most pig producers. Across Australia the industry is worth \$700 million; in New South Wales it is worth about \$200 million -

Mr Harrison: Was worth!

Mr AMERY: There is something in the comment by the honourable member for Kiama that it was worth about \$200 million. I believe the decision by the Federal coalition Government will certainly diminish the value of the industry in this State. About 1,000 pork producers employ a further 1,000 people. They produce about 800,000 pigs each year, which accounts for 30 per cent of Australia's production. Producers are spread over most of the New South Wales grain belt, which is represented in the main by the coalition in this House, and

along coastal New South Wales, which is represented by the former genius from Coffs Harbour. Pig producers up and down the coast are affected by this decision. This Government is waiting for the member for Coffs Harbour and his colleagues to send protest letters to their colleagues in the Federal Government.

In recent years the industry has been successful in developing export markets in Asia, and particularly in Japan, which had a delegation in this House today. The pork industry is highly efficient and very competitive. It should be able to stand on its own. But no industry, no matter how efficient, can compete with subsidised products from countries like Denmark. This week the Premier called on the Federal Government to implement national compulsory labelling of pork products. Australian consumers need to know what they are buying in their supermarkets; they need to know if a product is Australian or imported. The compulsory labelling system proposed by the Premier would require changes to the Commonwealth Trade Practices Act.

As a matter of urgency I join with the Premier and the honourable member for Clarence in calling on the Federal Government to implement a compulsory labelling system as soon as possible. Despite claims by the Federal Government that there has been widespread consultation on the issue of imported pig meat, that is not the case. The President of the Pork Council of Australia, Mr Peter Breckin, has been highly critical of the Federal Government for its lack of consultation. The New South Wales Farmers Association has also criticised the Federal Government's decision. If pig producers in Australia wanted to export pigs to Denmark or Canada they would face tariffs, quotas or import duties. The reverse is the case. Let us see whether the Federal Government can improve access to the European market. This bad decision will have a severe impact on pig producers in New South Wales. It should be condemned by both sides of this House.

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PETER BOARD HIGH SCHOOL CLOSURE

Mr AQUILINA: In regard to the question which the honourable member for Ku-ring-gai asked me concerning a banner which was hung at Peter Board High School, I can provide some further information to the member. It would appear that the sign was put up by one person without the approval of the principal, and without the approval of the parents and citizens association, and the principal asked that it be removed.

Questions without notice concluded.

GREENPEACE KIRRIBILLI HOUSE PROTEST

Privilege

Mr BROGDEN (Pittwater) [3.16 p.m.]: Under Standing Order 101, I wish to raise a point of privilege that has suddenly arisen. During private members' statements yesterday I commented on the decision of magistrate Scott Mitchell in relation to a protest by members of Greenpeace at Kirribilli House, the official Sydney residence of the Prime Minister. In my statement I said that I believe and continue to believe that Mr Mitchell's ruling was entirely inappropriate in failing to read -

Mr Whelan: On a point of order. This is not a matter of privilege; it is a matter of personal explanation.

Mr Hartcher: No it is not. He has been intimidated by a phone call.

Mr Whelan: If the honourable member intends to move a motion, he should do so and then it would become a matter of privilege for debate in the House.

Mr BROGDEN: I wish to bring the attention of the House at this, the earliest opportunity available, to the fact that shortly after 2.00 p.m. today I received a telephone call direct to me in my room in this building from Mr Mitchell. Mr Mitchell identified himself and I acknowledged him. For the record, the words "Mr Mitchell" were the only words I said in reply to him. Mr Mitchell proceeded to tell me that I did not know which political

party he belonged to, if one at all. He then asserted that I did not know his political views or how he votes at the ballot box. The conversation concluded with Mr Mitchell saying, "If you make that statement in public I will sue you." I did not respond; I terminated the call. Mr Mitchell's threat is a direct attack on my privilege as a private member and on this Parliament as a whole. As a magistrate, Mr Mitchell should be only too aware of the 1689 Bill of Rights, which states in particular:

That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

Mr Mitchell has attacked the rights of all members to raise matters of concern and public interest. That an ordinary citizen should do this is improper; that a judicial officer should do this is an outrage.

[Interruption]

Mr SPEAKER: Order! The member is entitled to raise a matter of privilege and then give notice of a motion.

Mr BROGDEN: I give notice of the following motion:

That this House asserts the privilege of its members to raise any matter which they believe to be of concern and deplores the action of magistrate Scott Mitchell in attempting to inhibit the right of the member for Pittwater to raise a matter he believes to be in the public interest.

CONSIDERATION OF URGENT MOTIONS

National Sorry Day

Mr MARKHAM (Keira) [3.22 p.m.]: My motion deserves urgency because the Aboriginal people wish to know what the Parliament of New South Wales thinks of recommendation 7A of the Human Rights and Equal Opportunity Commission report.

Mr O'Farrell: On a point of order. The member has been in this place long enough to know the purpose of this debate, which is to indicate why his motion should take precedence. Mr Speaker, I ask you to remind the member of the purpose of this debate and of Standing Order 120(4), so we do not go through this charade every day.

Mr MARKHAM: On the point of order. Had members opposite listened they would have heard my argument put succinctly and with purpose.

Mr SPEAKER: Order! The member was in order as he was not referring to the substantive motion.

EnergyAustralia Privatisation

Mr PHILLIPS (Miranda - Deputy Leader of the Opposition) [3.23 p.m.]: My motion is important and should be given precedence today because the matter arose only yesterday and as the Parliament is

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rising tonight until next week this is an opportune time to pursue it. Parliament deserves to know why the board of EnergyAustralia was sacked only two years after it was appointed. That essential issue should be debated urgently in this House. We also need to know why John Conde was appointed as chairman of the new board two years after he was sacked by the Minister from his position with Pacific Power where he was in charge for about seven years. Parliament needs to debate this matter. What was so wrong with EnergyAustralia, the largest distributor of electricity in Australia, that its entire board was sacked after only two years?

Mr McManus: On a point of order. The member is not explaining to the House why his motion is more

important than the motion of the member for Keira. He is entering into the substantive debate and I ask you to call him to order.

Mr SPEAKER: Order! The member was well within the standing orders, although towards the end of his remarks he touched on the substantive issue. The member is in order and may proceed.

Mr PHILLIPS: I am talking about a significantly unstable organisation, EnergyAustralia, which covers the communities of Sydney and Newcastle. It came as a shock to everyone to hear that the board was sacked after only two years. The people of this State deserve to have the reasons for that debated in Parliament. Was it sacked because of Redbank, the new power station deal in the Hunter? Was it sacked because the Minister wanted to head towards privatisation? It is inexplicable. In the media the Minister simply commented, "We decided to send it on a new direction." What direction is that?

EnergyAustralia is the largest distributor of power in Australia and this Parliament should debate today why these changes have occurred. I understand that members representing electorates in regions such as the Hunter, Bathurst and the central coast, and those involved with various trade unions, want to debate the reasons the board was sacked. Was it because it was heading towards privatisation? Maybe the Government could explain that during debate. What were the terms and conditions that were put in place for the new chairman? Is the new chairman to keep this organisation in line under a government-owned corporation, or will the new chairman take it in a new direction, towards privatisation?

One wonders why someone like John Conde would take on this job if the organisation was going to stay in government hands. Is that not a clear signal about the change of direction? The people of New South Wales deserve to know the new direction of EnergyAustralia. I am sure that members representing the electorates of Wallsend, Wagga Wagga, Newcastle and Bathurst, as well as the Hunter region, would want to know about the new direction for EnergyAustralia. Why John Conde? Everyone knows his views and where he would want to take EnergyAustralia. It is quite clear that Minister Egan is getting EnergyAustralia ready for privatisation, in spite of the Australian Labor Party and the union movement.

The Treasurer will sell EnergyAustralia from under our noses and will do so early in the new year. He will do that by subterfuge and by deceiving all members on the back bench. Therefore, this issue deserves to be debated urgently: it hangs there as a huge question mark. Backbench members opposite might be silent, but people from the Hunter and Newcastle regions will want to know why their elected representative does not want to debate this issue. What assurances can they be given? [*Time expired.*]

Question - That the motion for urgent consideration of the honourable member for Keira be proceeded with - put.

The House divided.

Ayes, 49

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Ms Andrews	Mr Mills
Mr Aquilina	Mr Moss
Mrs Beamer	Mr Nagle
Mr Carr	Mr Neilly
Mr Clough	Ms Nori
Mr Crittenden	Mr E. T. Page
Mr Debus	Mr Price
Mr Face	Dr Refshauge
Mr Gaudry	Mr Rogan

Mrs Grusovin	Mr Rumble
Ms Hall	Mr Scully
Mr Harrison	Mr Shedden
Ms Harrison	Mr Stewart
Mr Hunter	Mr Sullivan
Mr Iemma	Mr Tripodi
Mr Knight	Mr Watkins
Mr Knowles	Mr Whelan
Mr Langton	Mr Woods
Mrs Lo Po'	Mr Yeadon
Mr Lynch	<i>Tellers,</i>
Mr McBride	Mr Beckroge
Mr McManus	Mr Thompson

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Noes, 46

Mr Armstrong	Mr Oakeshott
Mr Beck	Mr O'Doherty
Mr Blackmore	Mr O'Farrell
Mr Brogden	Mr D. L. Page
Mr Chappell	Mr Peacocke
Mrs Chikarovski	Mr Phillips
Mr Cochran	Mr Richardson
Mr Collins	Mr Rixon
Mr Cruickshank	Mr Rozzoli
Mr Debnam	Mr Schipp
Mr Downy	Mr Schultz
Mr Ellis	Ms Seaton
Ms Ficarra	Mrs Skinner
Mr Fraser	Mr Small
Mr Glachan	Mr Smith
Mr Hartcher	Mr Souris
Mr Hazzard	Mr Tink
Mr Humpherson	Mr J. H. Turner
Dr Kernohan	Mr R. W. Turner
Mr Kinross	Mr Windsor
Mr MacCarthy	
Dr Macdonald	<i>Tellers,</i>
Mr Merton	Mr Jeffery
Ms Moore	Mr Kerr

Pair

Mr Gibson	Mr Slack-Smith
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Question so resolved in the affirmative.

NATIONAL SORRY DAY

Urgent Motion

Mr MARKHAM (Keira) [3.35 p.m.]: I move:

That this House fully supports recommendation 7A of the Human Rights and Equal Opportunity Commission report "Bringing them home", which calls for the Aboriginal and Torres Strait Islander Commission in consultation with the Council for Aboriginal Reconciliation to arrange for a national sorry day to be celebrated each year to commemorate the history of forcible removals and its effects.

The recommendation of a national sorry day to commemorate the history of the forcible removal of Aboriginal children from their families and the effects of that removal on those children and their families is a vital component in the healing process. Sir Ronald Wilson, former President of the Human Rights and Equal Opportunity Commission, said:

Time and time again we were told that all that was wanted was to know why they did it and that they are sorry.

That is a reasonable assessment by Sir Ronald of that vast report on the stolen generations. He made a similar statement in Melbourne in May at the Aboriginal Reconciliation Convention. "Bringing them home" estimates that between one in three and one in 10 indigenous children were forcibly removed from their families between 1910 and 1970. This matter does not refer to an abstract past. The events are very recent and should be afforded necessary recognition so that the reconciliation process can begin because it is a process that affects every aspect of Aboriginal affairs in this State and country. The New South Wales Government, in its submission to the human rights commission inquiry, stated:

... the NSW Government supports, as part of the reconciliation process, a national approach to the recognition of past practices ...

A national sorry day could reflect the acknowledgment and acceptance by the Australian community for this aspect of our very recent history. The New South Wales Government was the first Government to apologise to the stolen generations in a resolution of Parliament in June. That resolution was strongly supported by all members of this Parliament. However, that alone is not enough. I am pleased to say that there has been progress in this Government's response to the recommendations of the report. The Department of Aboriginal Affairs has convened a records access task force that is currently working through issues of how to establish culturally appropriate practices that will allow members of the stolen generation to access their records. The department has also established a steering committee of key agencies and organisations to facilitate a response to "Bringing them home".

The Government is committed to working with Aboriginal people in formulating its response. To this end the stolen generations working group, which provides a vital link to communities and the articulation of community needs, is represented on the steering committee. Steps undertaken by the New South Wales Government to address the recommendations of "Bringing them home" displays a willingness and commitment to the issues surrounding the stolen generations. I have been informed that the national stolen generations working group has decided that 26 May should be recognised as national sorry day. In fact, on 26 September a resolution was passed calling for a national commemoration day. Each State and Territory has its own working group and two representatives from each group form the national stolen generations working group.

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The State and national bodies are responsible for monitoring government response at all levels to the national inquiry into the recommendations of the report "The Stolen Generations: The Removal of Aboriginal children in New South Wales 1883 to 1969". The spokesman for the national working group is Brian Butler, and Carol Kendall is the interim national chairperson. Carol Kendall has been instrumental in setting up in New South Wales Link-Up - an organisation that has been mirrored in other States - to try to ensure that Aboriginal kids who have been stolen in past decades are reunited with their families. The vast majority of Aboriginal people I have spoken to and respond to the report of the Human Rights and Equal Opportunity Commission want to tell their story and start the process of healing.

We as a nation are mature enough to recognise that Aboriginal people should have the right to

commemorate a part of our history from which no-one can take joy. Regrettably, to date there has been no formal national apology. I urge this House and the Federal Government to contribute to and participate in the national sorry day. That would be a gesture to the Australian community to demonstrate our maturity, humility and strength as a united country. The Federal Government has been unable to say sorry and to support a sorry day or a day of commemoration. It is my hope that this Parliament will join me in making sure that the Federal Government is aware of what the people, especially the Aboriginal people, of this State and this country really want. I quote from the report "The Stolen Generations" by Peter Read of the Australian National University:

White people have never been able to leave Aboriginals alone. Children particularly have suffered. Missionaries, teachers, government officials, have believed that the best way to make black people behave like white was to get hold of the children who had not yet learned Aboriginal lifeways. They thought that children's minds were like a kind of blackboard on which European secrets could be written.

This article is about what happened to Aboriginal children in New South Wales who were taken away from their parents, either living on government reserves and stations, by government legislation, and put in the care of whites. It is the story of an attempt to "breed out" the Aboriginal race. It is the story of attempted genocide.

Anyone who has read the submission to the Human Rights and Equal Opportunity Commission on the stolen generations could not be but moved and shocked at what happened in this State for 60 or 70 years. I call on the Parliament to strongly support this motion. Aboriginal people in this State want to know exactly what the views of this Parliament are on clause 7A of the Human Rights and Equal Opportunity Commission report. It is up to us to make sure that they know exactly what we think. The passage of this motion today - hopefully with the support of the Opposition - will deliver the message, loud and clear and in a bipartisan way, that members of this Parliament are sorry and believe that a commemoration day should be recognised.

Other honourable members will speak about their own views on this matter. I have no doubt, however, that they will support this motion, as in the past they have supported resolutions and motions of support, of the indigenous people of this State. It is crucial that Aboriginal affairs are pursued on a non-political basis and that the members of this Parliament support what is happening in this State. It is important to recognise that there are many things that need to be done and many issues that need to be addressed, but today we must spell out loud and clear for the indigenous people of this State the view of this House on recommendation 7A of the report of the Human Rights and Equal Opportunity Commission.

Mr HAZZARD (Wakehurst) [3.45 p.m.]: This motion reflects the commitment of the honourable member for Keira to Aboriginal affairs and to the improvement of the lot of Aboriginal people. The Opposition has some concerns with the motion, not with its substance, wanting to bring about reconciliation, but as to whether the Australian community would consider that a national sorry day is appropriate. This Parliament has said on a number of occasions that honourable members, in a bipartisan way and without seeking to score political points, are extremely supportive and understanding of the horrors that were wreaked upon Aboriginal families by the forced separations enumerated in the report "The Stolen Generations: The Removal of Aboriginal Children in New South Wales 1883 to 1969".

Together with the honourable member for Keira, I was fortunate enough to attend the Australian Reconciliation Convention held in Melbourne in May this year. Along with 1,800 other delegates, I heard at first hand of the ways forward proposed by a great number of delegates to ensure that Australia achieves reconciliation between its indigenous and non-indigenous peoples. There can be no better cause for Australians to reflect upon the horrible history inflicted upon indigenous Australians and to modify our behaviour in the future to ensure that we reflect appropriately on what has occurred and on the ways in which we can improve the lot of Aboriginal people, who have suffered remarkably as a result of government policies carried out so brutally.

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As the honourable member for Keira said, a very high percentage of families were torn apart - young children were taken from their mothers and did not see them again until they were in their forties and fifties, if at

all; mothers suffered the anguish of having their children taken from them; whole families were literally split asunder. In an unprecedented gesture recently, an Aboriginal was invited onto the floor of this Chamber to speak to us about the horrors that she and her family suffered. Any member of this House with an ounce of compassion could not have failed to be moved by her story. It brought home the message, even to those honourable members who had perhaps not contemplated the issue. This Parliament has been at the forefront of the reconciliation process and has, on a number of occasions, recognised the need for leadership in respect of that process.

A series of motions in this House have received total bipartisan support. Indeed, only last week the House recognised the great and valuable work of Patrick Dodson of the Council for Aboriginal Reconciliation. A number of honourable members in this place have a personal involvement with the reconciliation process; the honourable member for Georges River and the Hon. Helen Sham-Ho in the upper House clearly have a commitment to that process. That commitment has been accepted by the Opposition and our Government colleagues. We want to ensure that Aboriginal Australians appreciate that we understand the horrors they have experienced and the need to move forward with the reconciliation process.

Mr Speaker, you will recollect that I wrote to you on behalf of the coalition and proposed that this, the oldest Parliament in Australia, should in some way acknowledge the contribution made by the Aboriginal people to this country. Implicit in that is a recognition of the incredible suffering they endured at the hands of government officials who enforced policies that, with the benefit of hindsight, were totally inappropriate. I wrote to you on 21 June 1995 to ask you to consider setting aside an area in the precincts of this Parliament, the mother parliament of Australia, to be devoted to the Aboriginal people as an acknowledgment of their contribution and integral involvement in Australia's history. It would be a constant reminder to visitors to the Parliament of how much we owe to indigenous Australians. In June 1996 you acknowledged that a permanent exhibition would be set up in the foyer of Parliament House to acknowledge the historical, cultural and ecological contribution of Aboriginal people to New South Wales and Australia.

I do not intend my remarks to be in any way deprecatory, but it would be nice if both sides of politics could get together on this issue and, in particular, if the Premier could become involved. Lack of finance or some other detail may be the cause of the delay. Often things go wrong. Whatever the cause, I encourage the Premier to take an active interest in this matter. I know that the honourable member for Keira is at the starting gates with the Opposition, waiting for something to be done. I am sure that members on both sides of the House share my view, and I believe that you, Mr Speaker, are concerned to see the project completed. The Opposition is eager to see its vision translated into something substantial. It is now two years and four months since the matter was first raised and I hope that today's debate will bring pressure to bear on whoever or whatever is delaying the exhibition. Honourable members should not return next session unless there is an Aboriginal display in the foyer. I am not suggesting that Opposition members boycott the next parliamentary session, because we have a responsibility to ensure that the Government is held to account, but it would be very nice if when we return for the next session - Government and coalition members alike - we have an Aboriginal display to remind us of the important and integral involvement of the Aboriginal people in Australia's history.

The New South Wales coalition has been at the forefront of the reconciliation process. We have supported and encouraged reconciliation. There has been not one degree of reluctance on the part of the Opposition in ensuring that the community understands that we all have an obligation to take part in the reconciliation process. However, the Opposition believes that we now need to focus on the issues of Aboriginal health and education. We have to do something quickly to reduce the number of Aborigines, young and old, being held in custody, and we need to address fundamental issues of housing and employment. While I can understand Sir Ronald Wilson's passion about a national sorry day, the Opposition has some concerns. We would like to see a focus on practical issues that would make the lives of Aboriginal Australians better than they have been in the past. Having said that, the Opposition does not oppose the motion and hopes that it will have total bipartisan support.

Mr THOMPSON (Rockdale) [3.55 p.m.]: Recently I received a card from a constituent advocating the introduction of a national sorry day. The card was produced by the Good Samaritan Sisters and the wording is as follows:

I know you have stated your commitment to the Reconciliation Process. One step in that direction, recommended by the Stolen Children Enquiry, is to institute a national commemorative SORRY DAY (the name preferred by our indigenous peoples themselves). Such a day would bear some similarity to Germany's *Prayer and Repentance Day*, . . . and the United States' *Martin Luther King Jr Day* . . . As a nation, this day would enable us to acknowledge our sorrow for past actions which grossly violated the human rights of our indigenous people. An annual SORRY DAY would also be a reminder of Australia's commitment to Reconciliation, and to a future where such actions would never be repeated.

The notion is that a national sorry day would be akin to, say, Remembrance Day, or even a special religious occasion such as All Souls Day. It would be a day on which we would be reminded of those dreadful actions and attitudes that caused such devastation and destruction to Aboriginal Australians, as was so poignantly exposed and documented in the stolen children report "Bringing them home". There will undoubtedly be critics of the proposal, who will say that the idea will only pander to and encourage the so-called guilt industry and the black-armband view of our history, but I do not accept that. If we are to be honest with ourselves and face the future with optimism and trust, surely we have to at least acknowledge the truth of our past - the full truth, warts and all. The history books I read when I was at school were sanitised and students did not learn the facts about our country's history. This report has exposed all, and we ought to be very thankful for that.

The truth is that we are all implicated in the policies of the past, but a distinction should be drawn between the direct responsibility we bear for our personal actions, and our shared responsibility as members of a nation for what has been done in the name of that nation. The former gives rise to guilt; the latter to shame. The fact is that few Australians alive today were personally involved in removing indigenous children from their families. However, as members of the Australian nation, we share a responsibility for what our nation has done and is doing. The report does not ask or require non-indigenous Australians to feel guilty, but it does ask today's Australians to listen to, understand and acknowledge a part of our history that has remained largely hidden.

The inquiry found that many indigenous Australians were victims of gross violations of human rights; from about 1946 laws and practices that promoted the removal of indigenous children from their families to non-indigenous households and institutions amounted to genocide; and from about 1950 the continuation of separate laws for indigenous children was racially discriminatory. Official policy and legislation which permitted the removal of indigenous children from their families were a crime against humanity. They did not conform with contemporary legal values and many raised their voices against them. From a legal perspective, the forced removal of indigenous children was contrary to the common law.

Policies and laws are genocidal even if they are not solely motivated by animosity or hatred. The inquiry found that a principal aim was to eliminate indigenous cultures as distinct entities. The fact that people may have believed they were removing indigenous children for their own good was immaterial. The removal remains genocidal. That legislation reflected government theories of merging, and later assimilation. It was thought that the forcible removal of indigenous children would ensure that their destiny was one of ultimate absorption by the people of the Commonwealth. Their destiny, however, was one of loss. One witness said in a submission:

Our life pattern was created by the government policies and are for ever with me, as though an invisible anchor around my neck. The moments that should be shared and rejoiced as a family unit for [my brother] and mum and I are for ever lost. The stolen years that are worth more than any treasure are irrecoverable.

Now that the facts are out and the truth is finally being faced, it is surely appropriate that a national commemorative day be declared. On this special day, a sorry day, as a nation we would acknowledge our sorrow for past actions which so grossly violated the human rights of Aboriginal Australians. A national sorry day would also serve as a reminder of our commitment to reconciliation and to a future where such dreadful actions would never be repeated.

Ms FICARRA (Georges River) [4.00 p.m.]: As the honourable member for Wakehurst has mentioned,

there has always been bipartisan support for motions about Aboriginal welfare, reconciliation, recognition and even recognition of Patrick Dodson's fine work. Today the Opposition expresses concern that a national sorry day may trivialise the matter and make it almost like an extension of a media event, instead of tackling the real issues that concern Aboriginal communities. It worries me that it is a gabfest with everyone talking. I would like to know what is being done to improve the health statistics, the housing conditions and the employment opportunities for Aboriginals. I tend to despair that perhaps in 10 years time future parliamentarians will be saying exactly the same things and that Aborigines will die and generations will be lost because of these terrible conditions.

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It is tragic that there was a stolen generation. The forced removal of Aboriginal and Torres Strait Islander children is a shameful part of Australian history that occurred in every State and Territory. The separation of these families began way back in 1885 in Victoria and New South Wales and continued in some States until the 1970s. In the 1980s it is shameful that indigenous children's institutions were still operating, and children were taken under government policies of protection and assimilation aimed at having indigenous people adopt European culture and behaviour to the exclusion of their family and traditional backgrounds.

The assimilation policy presumed that over time indigenous people would die out or become so mixed with the European population as to become indistinguishable. Some recollections of indigenous witnesses at the subsequent inquiry were devastating. They were discouraged from family contact. One witness said:

One of the girls was doing Matron's office, and there was all these letters that the girls had written back to the parents and family - the answers were all in the garbage bin. And they were wondering why we didn't write. That was one way they stopped us keeping in contact with our families. Then they had the hide to turn around and say, "They don't love you. They don't care about you."

They were brought up to reject Aboriginals and aboriginality. A witness stated:

We were told that our mother was an alcoholic and that she was a prostitute and she didn't care about us. They used to warn us that when we got older we'd have to watch it because we'd turn into sluts and alcoholics, so we had to be very careful. If you were white you didn't have that dirtiness in you . . . It was in our breed, in us to be like that.

I didn't know any Aboriginal people at all, none at all. I was placed in a white family and I was just - I was white. I never knew, I never accepted myself to being a black person until - I don't know if you ever really do accept yourself as being . . . How can you be proud of being Aboriginal after all the humiliation and the anger and the hatred you have? It's unbelievable how much you can hold inside.

The institutional conditions were very harsh. A witness stated:

There was no food, nothing. We was all huddled up in a room like a little puppy dog on the floor. Sometimes at night we'd cry with hunger. We had to scrounge in the town dump, eating old bread, smashing tomato sauce bottles, licking them. Half of the time the food we got was from the rubbish dump.

This is the reality and we should never forget it. I do not want the issue to become trivialised or to become so controversial. The community is sick and tired by being ripped apart by Aboriginal welfare, Mabo, Wik and national title issues. The community wants action and it wants political and community leaders to show real leadership to bring the community together. The leaders should not use gimmicks or trivialise the issue; they should seek to improve the future lifestyle and health status of Aboriginals and Torres Strait Islanders.

Mr MILLS (Wallsend) [4.05 p.m.]: I am pleased to give my strongest support to the motion moved by the honourable member for Keira, which states:

That this House fully supports recommendation 7A of the Human Rights and Equal Opportunity Commission report, *Bringing them home* which calls for the Aboriginal and Torres Strait Islander Commission, in consultation with the Council for Aboriginal Reconciliation, to arrange for a national "sorry day" to be celebrated each year to commemorate the history of forceable removals and its

effects.

The honourable member for Keira, the Parliamentary Secretary for Aboriginal Affairs, listed a number of activities that the State is undertaking in response to the "Bringing them home" report, which is important reading for all honourable members of this House. It is important that a progress report be made available for the people of New South Wales and that is why I value the opportunity to speak in this debate.

The honourable member for Georges River was concerned about trivialising sorry day. I agree that sorry day will be a symbolic act; that it certainly will not deliver funding for health services. However, I know from my own life, from community life and from my interaction with Aboriginal people in New South Wales and elsewhere in Australia that symbols are a vital part of our lives. Symbols help us to establish our identity, to deal with difficult times and to find agreement in otherwise disparate points of view. Sorry day will be a symbol of our commitment to reconciliation between Aboriginal and non-Aboriginal Australians. In June 1997 Governor Gordon Samuels spoke at a ceremony at which the New South Wales Reconciliation Committee received its credentials. In an article in the *Sydney Morning Herald* of 3 June 1997 the Governor is reported as saying:

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

The article also stated:

It is vital that we acknowledge past injustices and recognise the wounds inflicted by our earlier policy of systematic cultural denial.

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Unless we do so we cannot claim to be regarded as a just and fair society.

I had intended to finish the quote at that point. However, in response to a comment by the honourable member for Georges River I shall continue. The article further stated:

... one answer was the sincere expression of sorry and regret. It is an essential step and one in which I myself unreservedly join.

In relation to whether it is inappropriate for white Australians to apologise for what others did, Governor Samuels said:

The acts which we now deplore were done by Australians before us and are indelibly part of our history. We must face their reality and come to terms with them.

We are rightly encouraged to celebrate the splendid deeds in which our history abounds - the acts of heroism and self-sacrifice in war, success in sport and excellence in literature, art and music. We are all the product of our history. We cannot escape it.

We are entitled to take credit for the triumphs - we are all bound to condemn the wrongs.

In this case, all must do so by joining in a profound apology to the Aboriginal people who have suffered greatly from the evil policies of the past.

The New South Wales Parliament has led the way among Federal and State parliaments on reconciliation. In November 1996 the Premier unreservedly apologised, as did the Parliament in June 1997, with bipartisan support on both occasions. Reconciliation must be encouraged. We need to change our thinking; we should do something every day to help achieve reconciliation. I commend the honourable member for Keira for moving this motion, and I commend the honourable member for Wakehurst, the honourable member for Rockdale and the honourable member for Georges River for their contributions to the debate. A different picture has emerged in the Federal Parliament, where the Wik legislation is not contributing to reconciliation. Bucketloads of extinguishment will not help reconciliation. We need to help each other to unite Aboriginal and non-Aboriginal

Australians. If that can be achieved our future will be secure, and for that reason the symbol of a sorry day is important.

Mr MARKHAM (Keira) [4.10 p.m.], in reply: I thank the honourable member for Wakehurst, the honourable member for Rockdale, the honourable member for Georges River and the honourable member for Wallsend for their contributions to the debate. I listened intently to what they said about a day of commemoration, a sorry day. The number of leading Australians who have recognised the need for and, indeed, called for a day of commemoration demonstrates that this is the right time for the Parliament to support a sorry day. Recommendation 6 on page 234 of the report entitled "In the Best Interest of the Child? Stolen children: Aboriginal pain/White shame" by Link-Up and Tikka Jan Wilson states:

Commemoration. Public tribute must be paid to the survivors, and those who have not survived the policies and practices of separation. Public recognition of the ongoing courage and determination of Aboriginals to resist the genocidal policies of separation is essential. Commemoration can and should take place at a number of different levels. Nationally, there should be a 'Sorry Day' commemorating Aboriginal survival of our holocaust which is accorded the same recognition as ANZAC day. On a local level, communities may wish to establish commemorative places, or have a 'Welcome Home Day'.

I moved this motion because of that recommendation. Aboriginal people are calling for a sorry day. This Parliament does not want to tell Aboriginal people what they should do and what is best for them. That very issue is being debated in relation to the stolen generation. It has continued for too long and we should get away from it. The honourable member for Wakehurst referred to a commemoration place in the forecourt of Parliament House. Mr Speaker is fully aware of that proposal. Indeed, over the past couple of years there has been a deal of communication on the establishment of such a commemoration place.

I understand from discussions with the office of Mr Speaker that the Art Gallery of New South Wales recently hung a number of paintings in Parliament House in the area we believe should be dedicated as a place of commemoration. However, the paintings were too sensitive to light and too much light was coming in through the forecourt so the Art Gallery removed them. I understand that other cultural artefacts and paintings will be on display in the next couple of weeks, and I applaud Mr Speaker for that initiative. What should we be doing to meet the social requirements of Aboriginal people? Aboriginal people will decide what is best and fitting for their communities.

Today we are talking about a day of commemoration, a day set aside every year to reflect on the failure of past governments, and perhaps present governments, on reconciliation. If the issues receive national attention on a national sorry day, perhaps parliaments and parliamentarians would deliver instead of simply talk. On that day each year what happened in the past, what is happening now and what will happen in the future could be assessed. A day of commemoration, a sorry day, is crucial and the Federal Government should do more to ensure that a day is set aside for that purpose.

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Thirty years ago the Australian people gave the Federal Government the power to legislate for Aboriginal people. Let us legislate and do something positive for Aborigines. Let us not undermine Aboriginal rights in this country. Debate on issues such as Wik should not be divisive. The Wik issue is dividing Federal Parliament at present. We should understand what Aboriginals are requesting. This is the right time for this motion to be moved. Many people are calling for a national sorry day. More importantly, Aboriginal people are calling for it. They now know the attitude of the New South Wales Parliament to a national sorry day.

Motion agreed to.

CHILD SEXUAL ASSAULT

Matter of Public Importance

Dr MACDONALD (Manly) [4.15 p.m.]: I ask the House to note as a matter of public importance the promotion and protection of the best interests of children in the judicial system. I seek to push the boundaries of the judicial system and I shall give my reasons for doing so. I have sought to raise this matter of public importance for a couple of days, and it is a coincidence that a Federal Government study was reported in today's *Sydney Morning Herald*. The report, which is entitled "Seen and not heard: priority for children in the legal process", confirms all our fears about the treatment of children in the legal system. It is a damning report on the way children are treated by Australia's legal system. It is timely to raise this matter in the Parliament.

Children are vulnerable to sexual abuse and to abuse by the legal system. The system needs a major overhaul. I propose a tribunal system which would handle all child sexual assault cases. Why should there not be a tribunal system? I am comfortable proposing such a system on the basis of social justice. Luckily I am not a lawyer so I do not know all the obstacles. The current system is anachronistic and does not work: it fails our children. I shall provide some background to this matter. The Wood royal commission made public the horrifying extent of child sexual assault and made 142 recommendations to change the judicial process and give victims greater support and better access to justice. My proposal goes beyond that.

My alarm at the failings of the system date back two years and relate to the case of JM, who was 14 at the time. For two years he was repeatedly sexually abused by a neighbour. A medical report by Westmead Children's Hospital described it as the worst case of child sexual abuse the hospital had ever seen. The offender was charged and released on bail. He breached his bail conditions on a number of occasions. I am most critical of the way the magistrate handled that issue. The offender interfered with a witness whilst out on bail and finally appeared in court last year.

Under cross-examination the victim, JM, was abused by the legal process. He was also confronted in the court by the accused. The accused was acquitted and the child was absolutely mortified. Fortunately, justice finally prevailed and the offender was convicted last month on another charge and jailed for 16 years. I wrote to the Director of Public Prosecutions on 20 September following the failure of the Crown case in court, and highlighted my concerns about some of its deficiencies. I referred to the fact that the original interview with the victim should have been video-taped, that there should have been a joint investigative team approach, and that a system is needed that obviates youngsters to be subjected to cross-examination. I questioned the jury's ability to make a decent decision on the matter.

I also raised the need for experts to instruct juries before the trial begins. I also indicated my intention to draft a child sexual assault bill. However, I deferred further action until the release of Commissioner Wood's report. The present system is an adversarial system which favours the accused. It favours the strong, the mature and the self-confident, in other words, the perpetrator. In the present court system the best interests of the child are not a primary consideration. That is a breach of Article 3 of the United Nation's Convention on the Rights of the Child.

There are extremely long delays in investigating claims of child sexual abuse. A recent study conducted over three years by Monash University and the Australian Catholic University shows that on average there are delays of up to 18 months before these matters are put into the court system. Earlier this year a man in my electorate reported to me that his two daughters had disclosed to him that they had been sexually abused for years by their stepfather. I referred him to the local adolescent family counselling service, and the service referred the matter to the police. The stepfather has now been charged. The father rang me yesterday and said he is absolutely sick of the system. The trial has now been deferred on three occasions for essentially trivial reasons given by lawyers for the defence. The two girls are frightened and distressed. Who does the system favour?

A child most fears a court hearing and having to face the offender. Under the existing system the conviction rate is a farce; it is very low. Only 1 per

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cent of verified notifications result in conviction, and only 5 per cent of those charged are finally convicted. The long delays benefit offenders in a number of ways. The child gets older and presents as being less vulnerable. The details of the event become cloudy, and the child, in a sense, wants to move on. I want the current system to

be replaced by one that allows speedy justice and favours the child.

I want all sexual assault cases to be heard before a three-person panel set up exclusively to hear the case. That would remove the necessity for jury and there would be no unnecessary delays. The onus of proof would be on the accused and the standard of proof would be on the balance of probabilities. Children should never have to appear in court. The panel would consist firstly of a judge or magistrate who would determine matters of law. The second member of the panel would be a child development specialist such as a doctor, psychologist or social worker, who would have the role of assessing the child's development at the time of the offence. Under the present system that does not happen and the child's psychological state is never considered.

The third member of the panel would be a sex offender assessment specialist to assess the offender's attitudes, behaviour in the circumstances of opportunity, guilty passion, criminal history, and juvenile records. The removal of the jury system would have many advantages. I can hear lawyers claiming that it would overturn years of court tradition, but the current jury system has many disadvantages. Judgment of child sexual assault cases is complex and technical. Expert witnesses are often not allowed into the court to explain relationships between the victim and family, et cetera.

Unanimous verdicts are problematic. In fact, Justice Wood referred in his report to the possible need for majority verdicts. Last year I spoke about the possibility of 10-2 or even 9-3 majority verdicts in these cases. Some have speculated that on a jury of 12 there may be a perpetrator. Jury trials can be aborted, and that is a matter of concern. Statistics reveal that because of the jury system many child sexual assault cases never proceed. At present, the contest between legal counsel in front of a jury often means that a child has to prove that the assault took place. In those circumstances the child is at a great disadvantage.

It is often assumed that the evidence of a child cannot be trusted. Justice Wood referred to that assumption, and argued that the Evidence Act may need to be amended to delete the provision relating to the trial judge instructing the jury that it should query the evidence of a child. The evidence of children is rarely vexatious. If anything, the evidence shows that they tend to under-report rather than over-report. The three members of the panel would review the evidence before them. They would look at the child's evidence, which would be recorded on by the joint investigative team. A comprehensive initial interview would form the evidence in chief of the child.

In that way the child's evidence would be taken while it is relatively fresh. In addition, the child would not have to repeat the allegations and would not need to face the alleged offender in court. The offender's case would also be heard by the panel. The onus would be on the offender to convince the panel that on the balance of probabilities he was not guilty and that the accusations were fabricated. The panel would then determine on the balance of probabilities whether the case against the accused had been made out. If the accused were convicted he would then be sentenced by the judge or magistrate, but that conviction and sentence would be subject to appeal to the Supreme Court. It is time there was an open debate about the failings of the current system, about the need to introduce a pro-child bias and, basically, about the need to the current system on its head.

Mr WHELAN (Ashfield - Minister for Police) [4.25 p.m.]: I commend the honourable member for Manly for his contribution. I am aware of his interest in this vexed issue. The Government is currently implementing a number of initiatives that will allow many of the issues to which he has referred to be dealt with expeditiously and in a more informal manner than they are under the present system. The royal commission drew attention to the need for assault trials involving young children to be conducted within strict time frames. The Government intends to appoint an additional judge to the District Court to assist in the expeditious hearing of these matters. Prompt hearings of these matters will greatly alleviate the trauma experienced by children when giving evidence in court proceedings.

In response to concerns about that trauma the Government introduced the Crimes Amendment (Children's Evidence) Act, which commenced operation this year and introduced a number of practical and procedural reforms in respect to the giving of evidence by children. The Act ensures that the children's right to use

closed-circuit television facilities is paramount. Children giving evidence in criminal or civil proceedings arising from a personal

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assault offence, or in proceedings involving the making of an apprehended violence order, are now entitled to give evidence by means of CCTV or similar technology. A child who gives evidence in his or her own defence in proceedings in court or in a tribunal also has a limited right to give that evidence by means of CCTV facilities in cases where the court deems it appropriate.

To provide additional assistance, the Act makes it possible for all children who give evidence as witnesses in proceedings to be accompanied by a parent, relative, friend or support person. Those persons may include more than one parent or relative or an interpreter. That provision in the Act acknowledges the emphasis that Australia's multicultural society places on the extended family and on community support. Persons attending court in such situations are viewed as a resource rather than a hindrance to the process.

Closed-circuit television will make it easier for children to give evidence in matters that affect them. By providing for the implementation of CCTV the Act fulfils Australia's obligations under the United Nations convention. Over a three-year period \$2.5 million will be spent on initial capital costs to obtain and install the essential equipment to allow CCTV facilities to operate in all significant court locations across the State. That will provide enough coverage to allow adequate access to CCTV facilities around the State and ensure that country children have the same support when giving evidence as those in the Sydney metropolitan area. The Attorney General's Department has commenced implementing a staged program to provide these facilities to all suitable courthouses. Closed-circuit television has already been installed in 32 courts around the State, and installation is scheduled in a further 23 during the 1997-98 financial year. The provision of those facilities involves the conversion of existing areas or the construction of suitable accommodation.

In addition, the Government will shortly introduce a bill relating to the giving of evidence by children. That bill will require police officers and other investigating officers to audiotape or videotape interviews with children. The bill will also enable those recorded interviews to be admitted into evidence as part or all of the child's evidence in chief in any criminal proceedings. The bill implements the recommendations of the report of the children's evidence task force on the audiotaping and videotaping of children's out-of-court statements. The task force identified a number of benefits from the audiotaping or videotaping of children's evidence. Those benefits include greater accuracy in the recording of the evidence, a reduction in the number of interviews for child witnesses, reduced trauma for children giving evidence, assistance to children in refreshing their memory prior to giving evidence, reduced opportunity for the child's evidence to be contaminated by the involvement of others, and a possible increase in the rate of pleas of guilty by persons accused of offences against children.

The report of the paedophile inquiry by the Royal Commission into the New South Wales Police Service endorsed the recommendations of the children's evidence task force in so far as they relate to the mandatory audiotaping or videotaping of interviews with child witnesses. The bill to be introduced that deals with children's evidence will amalgamate sections 405C-405I of the Crimes Act 1900 relating to children giving evidence by the use of closed-circuit television and by other methods. That will mean that one discrete piece of legislation will address the various options available to children giving evidence in criminal proceedings.

The Government is also pursuing a number of other important initiatives, including amendments to the Young Offenders Act 1996. The Government introduced the Young Offenders Act in the light of concerns such as those expressed by the joint Australian Law Reform Commission-Human Resources and Equal Opportunity Commission report about the appropriateness, effectiveness and efficiency of bringing children accused of less serious offences into the criminal justice system. That Act established a scheme providing for alternatives to formal court proceedings for children alleged to have committed certain criminal offences and, in particular, provided for the establishment and conduct of youth justice conferences.

The scheme has been developed having regard to the experience of administrative-based conferencing initiatives in New South Wales, such as the community youth conferencing scheme. Consideration was also given to legislative initiatives in other jurisdictions, particularly the New Zealand model of family group

conferencing. The Act provides for the establishment of a youth justice conferencing scheme as an alternative to instituting court proceedings in relation to certain offences committed by persons under the age of 18 years. Victims will have a full right to participate in a conference and will be given the opportunity to express their feelings in relation to the offence and to impress on the young person the harm that has been caused to them by the offence.

Young people, their families and the victims, when they attend, will participate in the development
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of an outcome plan for the young offender, which may include the making of an apology or reparation to the victim. Recommendations can also be made which are not part of an outcome plan but which will help the young person back into the community, such as a literacy course. Conferencing will sit at the top of a hierarchy of possible pre-court interventions, including informal police warnings for summary offences, formal police cautions and conferencing. Formal cautions and conferences will be available for summary offences and, with some exceptions, indictable offences that may be tried summarily pursuant to part 9A of the Criminal Procedure Act, including sexual offences and drug trafficking offences. Police officers will be required by the Act to consider the appropriateness of less formal intervention before proceeding to consider more formal intervention or court proceedings. Cautions and conferences will be available only when the young person has admitted to the offence concerned.

A conference is to be preferred over a caution or warning, having regard to factors including the degree of violence involved in the offence, the effect on the victim and the child's history of offending. It is intended and hoped that the introduction of the Young Offenders Act will lead to a significant increase in the use of pre-court diversionary options for young offenders, to greater consistency in the use of such options, and eventually to a reduction in the number of young people in custody in juvenile detention centres. The Government has a proud record in relation to other issues relating to the protection of children. The honourable member for Manly raised an interesting point. He said that in many cases children become the victims, and the losers, in the court processes, and it is about time their situation was re-examined. He said also that historical precedents applying to young children should not be relied upon.

In the past two or three decades large numbers of young children have appeared in the court system, a situation that was rare many years ago. Before I became a member of Parliament, the honourable member for Baulkham Hills and I were court solicitors. We worked for the same firm of solicitors and looked after young children involved in maintenance matters. We had first-hand knowledge of how children were affected by the court processes. Despite the fact that magistrates and judges took great care of infants involved in the court process, it was always clear in my mind that young people, who were in strange surroundings, were often traumatised, depending on the gravity of the matter before the court.

In those days the matters before the courts were the equivalent of what are now referred to as applications for apprehended violence orders. I recall stories of brutality by fathers, step-fathers and other male partners against females. Such applications were always harrowing experiences. On many occasions the magistrates asked the court staff to take the young person out of the courtroom. Such an experience would have impacted dramatically upon a young person. But the law has now been changed as it affects the large number of young people and children who come into the court system. As the honourable member for Manly indicated, his proposal is a radical new approach to the care of children. As I understand his proposition, the jury will be replaced by a panel of experts, as distinct from a panel of community members, with a variety of expertise about a variety of issues.

That idea warrants further investigation and study. Why would one want children to be treated separately by an panel of experts on child sexual assault matters? It may be better left to jurors to determine the facts of a particular matter. The Government has a proud record of protection of young children who become involved in the court system. As Minister for Police I am proud of the great work done by the Child Protection Enforcement Agency. That agency leads the nation in the investigation of child sexual assault matters and will continue to do so. It will continue to be sponsored by the Government and supported by every member of this House. I will refer the proposal made by the honourable member for Manly to the Attorney General and seek further advice.

Mr KINROSS (Gordon) [4.35 p.m.]: I agree with the honourable member for Manly and the Minister for Police that this important issue should be discussed, having regard particularly to the release of the recent report of the Australian Law Reform Commission, as reported in today's *Sydney Morning Herald*. The matter of public importance involves a consideration of the judicial system. It would be fair to say, as the honourable member for Manly said in his concluding words, that we should consider turning the current system on its head. In the minds of some legal officers his proposal probably would not be considered to be part of the judicial system.

Under the proposal there would still be a trial, but the onus of proof would certainly be changed. The report into paedophilia of the Wood royal commission has given the community a massive shock and has led the community to question whether our children are being served in the best

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way possible. The mere fact, as the honourable member for Manly suggested, that it may turn the system on its head should concern us. I have never been prepared to rule out such an extreme case if it could be shown to have succeeded elsewhere or, alternatively, that such a system may be a true paradigm of limiting the way we approach and investigate important issues.

As I understand it, the issues raised by the honourable member for Manly fall into three categories. First, that a panel or tribunal be established to hear all sexual assault cases; second, that the onus would be on the offender to convince the panel, on the balance of probabilities, that he was not guilty; and, third, evidence relating to an offender's prior criminal history would be admissible. Of course, those three matters would change the current system. In criminal trials - and we are here dealing with cases of sexual assault of children - the onus of proof is of the highest standard, that is, proof beyond reasonable doubt, not proof on the balance of probabilities. Our legal system provides also that unless prior convictions are so similar to the offence with which the accused is charged, similar fact evidence is inadmissible.

The honourable member for Manly proposes changing those three major issues. Certainly I shall not talk at length about matters such as closed-circuit television and various reforms that have been implemented because those reforms were dealt with by the royal commissioner in his report. I specifically draw the attention of the House to chapter 15 of his final report "Volume V: The Paedophile Inquiry" at pages 1089 to 1126. Without wishing in any way to diminish the sincerity and importance that the honourable member for Manly places on these issues, most if not all members of this House value the need to have such cases heard quickly, in the interests of protecting our children. There should be as short a time as possible between arrest and trial.

Clearly, delays in hearing cases place limitations on our criminal system, especially when, if there is no justification to the assault charge, the accused also suffers by being imprisoned. Whilst a number of recommendations have been flagged in chapter 15 of the report by the royal commissioner, I understand that not one raises the three points outlined by the honourable member for Manly, that is, dispensing with the jury system, dispensing with the onus or burden of proof, and dispensing with the limitations upon which similar fact evidence can be introduced into the subject charge and hearing. It is an important debate and will continue for some time. Certainly substantial changes such as those proposed cannot be taken lightly and should receive attention. However, it must be borne in mind that changes to the current legal system should be supported by evidence.

Dr MACDONALD (Manly) [4.40 p.m.], in reply: I thank the Leader of the House and the honourable member for Gordon for their contributions. My purpose in moving this matter of public importance was to open up debate. I want to broaden our responses to the horrors of child sexual abuse that have been highlighted over the last year or two. Obviously, I am concerned about the problems associated with paedophilia and the paedophile network, but we have not allowed the debate to shift beyond that and into the area of how to deal with child victims.

Honourable members must remember that this reform process relates only to child sexual assault victims. We may have to look at the definition of a child because presently it is limited to those up to the age of 16 years. Consideration may have to be given to moving beyond that limit. I am grateful that the Leader of the House said

he will refer these matters to the Attorney General. I shall do the same. I note also that the honourable member for Gordon indicated the importance of these issues. However, all I have heard in response is that this would result in a shifting of the deckchairs. There is an element of lip-service in this debate to reform the system and to change outcomes to avoid damage to and victimisation of children, as occurs with the current system.

I worry that we and the system are at the mercy of smart lawyers. It seems that the smarter the lawyer the more likely the justice system will be hampered. Following the case of JM in my electorate I was mortified that this animal that I have chosen not to name got off. I was delighted when finally he was put away for 16 years because it was a dreadful case. Following that case I went to the Director of Public Prosecutions and asked, "How do you feel about it?" I had discussions with senior staff of the Office of the Director of Public Prosecutions. In the last 12 months we have worked on this issue and reached this point. The Director of Public Prosecutions made a separate submission to the royal commission in which he said:

In matters concerning child complaints and offenders, there are often no eyewitnesses or corroboration. Juries are often asked to assess the credibility of a child witness as against an adult accused. Many child witnesses are ill-prepared to give evidence in the daunting atmosphere of a criminal trial court. These witnesses come into our courts with little or no grasp of courtroom jargon, and in many cases even adult language. There is little understanding that they are permitted to be assertive whilst giving evidence, to request such things as

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toilet breaks, for questions to be repeated or, in some cases, even to disagree with an adult (usually dressed in curious barristers' garb) asking often strangely expressed questions of them.

Child victims are asked to recall a series of events, specific instances of abuse and particular time frames, often after a long delay. Recall such as this is complicated and frustrating for any witness. It is even more so for the child witness whose life experience equips him or her less for such a challenge than that of any adult. A delay of 18 months may be 25% of the child's life but only 5% of the adult offender's. The child often feels intimidated by the questions and his or her surroundings and comes across as confused and not credible even when telling the truth to the best of his or her ability.

What a damning indictment of the current system, and that from the Director of Public Prosecutions, Mr Cowdery. I worked with the DPP to try to find ways to reform the system. Why do we have to be attached and locked into a system that is unfair and not working? My proposed system, which introduces a concept of a panel, will allow for an appeal if the panel decides that on the balance of probabilities a person is guilty, and that person is convicted and sentenced. Such appeal would be against conviction and would be limited in the defendant's case to unfairness, bias, being framed, fabricated evidence, alibi and that sort of thing.

The appeal could be based only on facts and not on the law. In the case in which, on the balance of probabilities, the panel believed that the defendant has a case, it would then proceed to adduce evidence through cross-examination and thereafter the panel would determine guilt or innocence. I have argued that the onus of proof should be on the defendant. That may not be necessary if a panel is established and the standard of proof is on the balance of probabilities. However, I put this matter before the Parliament because I want it discussed properly. I also want it referred to the Law Reform Commission and to the Attorney General. I shall pursue this matter relentlessly in the next few months.

Discussion concluded.

DISSENT

Ruling of Mr Speaker

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

INTERNATIONAL TRANSFER OF PRISONERS (NEW SOUTH WALES) BILL

Second Reading

Debate resumed from an earlier hour.

Mr SCHULTZ (Burrinjuck) [4.45 p.m.]: The purposes of this bill, which complements Commonwealth legislation, are to enable Australians imprisoned overseas and foreign nationals imprisoned in Australia to be returned to their home countries to complete the serving of their sentences, and to enable persons having a connection with Australia who have been convicted by the international war crimes tribunals of war crimes in former Yugoslavia and Rwanda - tribunal prisoners - to be transferred to Australia to serve their sentences. The bill has been developed in consultation with the States and Territories through the Standing Committee of Attorneys-General - known as SCAG. The number of people serving prison sentences in foreign countries has increased as a result of increases in international air travel and criminal activity. For domestic and international reasons it is important for Australia to participate in international prisoner transfers.

The Commonwealth House of Representatives Standing Committee on Legal and Constitutional Affairs found that in Australia there is almost unanimous support for this legislation from both the public and private sectors. Some State and Territory governments have raised concerns about certain aspects of the bill centred on costs; not on the transfer principle itself. I too have raised similar concerns. The International Transfer of Prisoners (New South Wales) Bill provides the framework for a prison transfer scheme that will apply to all offences covering persons who have been convicted of a crime and sentenced to imprisonment, including persons with a mental disorder and persons on parole. Transfers would be considered on a case-by-case basis. They must be consensual: they require the consent of the transferring prisoner, the Australian Government, any involved State or Territory government and the government of the other country.

I have a problem with that provision in regard to outgoing prisoners. It is my understanding that in New South Wales 899 prisoners fit into the category of prisoners who could be transferred overseas. The shadow minister for corrective services, the honourable member for Lane Cove, pointed out that because of the conditions in New South Wales gaols and the enjoyment by prisoners of certain benefits, very few prisoners would consent to being transferred back to their home country. It is my view that outgoing transfer should be compulsory; it should not depend on whether a prisoner wants to transfer.

The bill contains discretion for the Attorney General to make any adaptations to the sentence a prisoner would bring with him or her from another country. I have difficulties with that provision also. It is my belief that sentences imposed by overseas jurisdictions should be served in this country. On several occasions people convicted of trafficking in

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narcotics have been sentenced overseas to imprisonment for a term of 45 years. The full term should be served in Australia. If we were fair dinkum about the principle of transferring foreign nationals from this country to their country of origin for crimes committed in this country, it would be reasonable to expect that foreign nationals in this country convicted of very serious crimes - certainly those relating to the distribution of hard narcotics - would be deported as a matter of course when convicted.

I have a belief - although it has nothing to do with this bill - that people in this category who are nationalised Australians should have their nationalisation revoked and should be deported. It is my understanding that cost is a contentious issue for several States. States are concerned that they will be faced with an enormous financial burden because of the transfer of Australian citizens who have been convicted overseas on serious charges of, for example, narcotics distribution, and sentenced to a period of 45 years and now have to serve that sentence in Australia, following their transfer from some overseas country. That is probably the reason for the provision in the legislation that allows flexibility to the Attorney General to reduce sentences if that is considered to be warranted. I believe that if a person perpetuates a crime, whether in Australia or overseas, he or she should face the full force of the law of the country in which the crime is committed, so I do not give any great weight to civil libertarian views in that regard.

It is my understanding that the provisions allow a sentence either to continue to be enforced or to be converted to a different sentence in the receiving country. The Council of Europe Convention allows either method. Some countries may therefore use the continued enforcement method while others may take the

conversion approach. So far as incoming prisoners are concerned, the bill enables both forms of sentence enforcement. However, subject to any agreement to the contrary, it is proposed that Australia would generally use the continued enforcement method. I agree with that. Under this proposal an incoming prisoner would in effect bring with him or her the sentence from the sending country, less any time served or remissions earned in the sending country up to the date of transfer.

From the date of transfer the sentence would be subject to Australian law concerning the enforcement of sentences. Australian laws concerning conditional release or remission would apply to the sentence as if the sentence was imposed in Australia at the date of transfer. The relevant laws would be those applying to Federal offenders. The issue as to whether to treat incoming prisoners as prisoners of the State or Territory to which they are transferred or as Federal prisoners was discussed by the Standing Committee of Attorneys-General. It was agreed that it would be preferable to treat incoming prisoners as Federal prisoners. This is really only a matter of administrative convenience; it is not an issue of substance and it has no significant implications. The provision enables uniformity and prevents forum shopping. For example, incoming prisoners may attempt to transfer to the State with the most favourable remission system if they were treated as State or Territory prisoners.

Treating incoming prisoners as Federal prisoners is not expected to have any financial implications for the Commonwealth. In my opinion, that is wrong. The States should not bear the brunt of any financial implication that may result from international prisoner transfers. It is my view that if the Commonwealth wants the international transfer of prisoners to work - and the Commonwealth instigated this legislation - then it should bear any financial implications. The States and Territories have agreed to imprison incoming persons, who will be deemed to be Federal prisoners for administrative convenience. The States and Territories recognise that they will be able to offset those costs against the savings arising from prisoners transferring out of their prisons. As I said earlier, it is likely that the costs incurred through incoming prisoners will be greatly outweighed by the cost of outgoing prisoners. That is my view, and whether it proves to be reality remains to be seen.

I have sympathy with the Minister for Corrective Services in that his Government is being subjected to the costs of incoming prisoners, which may well outweigh the cost savings of prisoners being transferred overseas. The sentence to be served in another country by a prisoner who had originally been sentenced in Australia would depend upon the method of sentence enforcement used by the other country. Although Australia has no control over this specific matter, the ultimate control is the consensual process. A person would not be transferred unless the Australian governments - the Commonwealth Government and the State or Territory government as relevant - consented. Before agreement was given to a transfer inquiries would be made as to what sentence an outgoing prisoner would serve in the other country. If that sentence was substantially shorter than the sentence that person would serve if he or she remained in Australia, Australia would have the ability to refuse the transfer.

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The underlying point is that prisoner transfers, whether incoming or outgoing, will always be consensual. If the sentence to be served in another country - which would be communicated before a transfer was agreed to - is likely to be controversial or to invoke outrage from victims, et cetera, the transfer could be refused. I think that should read "should be refused". Every transfer application will be considered on its merits and sentence enforcement issues will always be considered. Whilst my personal views on this matter may not be the views of my parliamentary colleagues in this House, I have concerns about the legislation. I believe there is an expectation in the community that prisoners, regardless of who they are or what they have done, will be subject to the laws of this land and should serve the sentences imposed on them by the courts of this State and other States throughout the Commonwealth.

I am also firmly of the view that the community does not have any sympathy for those convicted of heinous crimes, or of trafficking in narcotics in other countries, knowing full well what the sentences and attitudes of those countries are. I have no doubt that the mainstream community would expect such people to serve the sentence imposed on them by jurisdictions in those countries, and not be subject to any special treatment or remissions of the total sentence imposed. Having said that, I will support the Government in respect

of the bill. It is a start, but I believe the legislation is flawed, particularly as it relates to matters of cost, sentences and, indeed, optional preference on the part of the prisoners to return home or remain where they are. I do not think they should have that choice, and I stand by that view. I thank the Minister for giving me an opportunity to raise my concerns and speak in the debate today.

Mr McBRIDE (The Entrance) [5.00 p.m.]: It is with a degree of pleasure that I speak to the International Transfer of Prisoners (New South Wales) Bill. The history of the bill has been referred to by many speakers, but it really came to prominence in July 1992, when a meeting of the Standing Committee of Attorneys-General held in Perth agreed to a scheme involving the international transfer of prisoners. Subsequently, on 25 October 1996, a draft Commonwealth model and complementary State and Territory international prisoner transfer legislation were endorsed. The Commonwealth bill received royal assent on 18 June 1997. The operational provisions of this legislation will commence on the passing of complementary State legislation. What impresses me about the legislation - and I refer to comments made by the Minister when he introduced the bill - is that the principal argument in favour of the scheme is humanitarian.

The deprivation of liberty can be more harsh for people imprisoned in a foreign country than in their home country, because of the absence of contact and support of relatives and friends. There are also language barriers, differences in diet, alienation from local culture, intolerance of religious practices, ineffective vocational training and general prejudice against foreigners. The transfer of a prisoner to his or her home community is likely to enhance that prisoner's prospects of rehabilitation and reintegration into the community. I certainly believe that it is important legislation that will not only enhance the prospect of rehabilitation for participating prisoners, but will also reduce the hardship suffered by families of Australians imprisoned in foreign countries. The reason I take that view, and why I feel so strongly about the legislation, stems from my role as a member of Parliament.

One of my constituents came to see me in August 1993, at which time she outlined the case of her son who was imprisoned in Florida in the United States of America. As it turns out, because of special legislation introduced in that country, he received a fixed 25-year sentence with no chance of parole or reduction in sentence. My constituent last saw her son in April 1990 when she visited him before he was sentenced, but since that time she has not seen him. My constituent is a pensioner aged 66 years. In October she again came to see me to ask if I would make representations on her behalf in regard to this legislation so that her son might be returned to Australia in the future. As I said earlier, my concern is the result of my dealings with this lady and my recognition of the suffering that is inflicted on family, friends and relatives as a result of the actions of an individual.

I have no argument with the proposition that a person who commits a crime should pay for that crime but what has not been recognised is how that impacts on other members of the family. In this instance a mother who has raised a son - who, prior to his conviction in America, had no criminal record - may not see her son again. That is the way it would be if this legislation had not been introduced in the New South Wales Parliament and in parliaments throughout Australia. In addition, my constituent was told in August 1991 by a former member of Parliament that it was anticipated that this type of legislation was imminent and that, hopefully, her son would be returned to her in the not too distant future - August 1991! In August 1991 she had an expectation, as a result of an

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official letter from a member of the coalition Government, that she had nothing to worry about, that within a short period her son would be coming back to Australia.

My constituent has lived with that anguish from 1991 to today. When she came to see me in October, she asked what hope existed for her and her son in the future. I do not mind admitting that she broke down in my office because of this emotive issue. It is not an issue that concerns only the person who committed the crime; it also has a ripple effect on other members of the family because their relative or loved one has been imprisoned overseas. In my opinion this is wonderful legislation. As I said earlier, if I had not had that experience, I would have adopted similar views to those expressed by members of the Opposition. I would have said, "They committed the crime and they have to pay the penalty. They committed a crime in another country; they should

have respected the laws of that country. That is the end of the game."

But it is not like that. This is genuine, humanitarian legislation and Australia has a reputation, both nationally and internationally, in regard to such issues. The legislation reflects community values that are part of the Australian ethos of looking after one's loved ones and family, and extended family. That is why I believe this legislation is so important. In conclusion, I congratulate the Minister and the Attorney General in the other House on bringing the legislation forward. I also congratulate the Attorneys-General throughout New South Wales, who have demonstrated an enlightened view in regard to the handling of international prisoners.

Mr MERTON (Baulkham Hills) [5.08 p.m.]: This legislation is unique in so far as similar legislation has not before been introduced in this State. The legislation is to be dealt with jointly on the basis that there is Federal legislation with reciprocal legislation in each of the States and Territories that are willing to participate in the prisoner transfer scheme. Some years ago I had experience in corrective services when this matter was on the agenda. At that time I considered the matter carefully and, in fairness to the Minister, I concede that there are some grounds upon which this legislation should be passed by the Parliament. This is a complex matter which concerns not only New South Wales but also the Commonwealth and other States.

I oppose the legislation and I will briefly deal with certain aspects of it. First of all it is fundamental to this legislation that all transfers must be consented to by the prisoner to be transferred, the Commonwealth Government, the relevant State or Territory, and the government of the country in which the prisoner is incarcerated. Each of those entities must consent and certain factors must be satisfied before a transfer can take place. The person must be in prison under a final order under which neither the sentence of imprisonment nor the relevant condition of conviction is subject to appeal. In other words that person's fate must be sealed.

A person seeking a transfer to Australia must be an Australian citizen or be permitted to travel to, enter and remain in Australia indefinitely pursuant to the Migration Act. Dual criminality is important whereby the acts or omissions constituting the relevant offence would, if the acts or omissions occurred in Australia or another country, as appropriate, constitute an offence in that country. In other words the offence that was the subject of the person's conviction overseas must be an offence in New South Wales. If there is no such offence in New South Wales that person is not eligible for transfer. There is also a requirement that at least six months of the sentence must remain to be served.

Mr Debus: It is sounding very reasonable so far.

Mr MERTON: That is a reasonable requirement. However, at the end of the day New South Wales will have to pick up the tab for the transportation of these prisoners and for their continued incarceration. As all honourable members know, sentence enforcement attracts a lot of media publicity. Sentences imposed by some overseas courts are considerably longer than sentences imposed in Australia for similar offences. Sentencing can be looked at by the authorities in two ways: the sentence handed out by the overseas court is continued; or a mechanism could be substituted to impose what could be described as a local sentence.

Pursuant to sessional orders business interrupted.

PRIVATE MEMBERS' STATEMENTS

WYONG HOSPITAL MATERNITY UNIT

Mr CRITTENDEN (Wyong) [5.15 p.m.]: Tonight it is my pleasant duty to report to the House that the delivery suite at Wyong Hospital maternity unit became fully operational on 27 October, and

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this morning the fifteenth baby was born at that unit. The first baby born after the commissioning of the obstetrics unit at Wyong Hospital was Chantelle Austin, whose proud parents, Wayne and Kay Austin, come

from Brightwaters in the electorate of the Leader of the National Party. The delivery suite was long overdue. In the last 12 months there have been some hiccoughs but thankfully, through the excellent efforts of the Director-General of the Department of Health, the area health service - the board and the chief executive officer - and the medical superintendent, those difficulties have been overcome and it is now full-steam ahead.

The delivery suite consists of three delivery rooms, an assessment room, a grieving room and support services. Facilities for emergency caesarean section and some epidural and anaesthetic services are available. The maternity section of the Wyong Hospital has 12 full-time equivalent nursing positions and three specialist obstetricians under the leadership of Dr Ray Hyslop, formerly from Liverpool Hospital and a doctor of immense experience, together with Dr Ensen Teoh and Dr Noel Docker, who provide 24-hours-a-day, seven-days-a-week coverage for emergencies. Women can be assured that any untoward problem with their pregnancy will be dealt with very professionally by those doctors. In the commissioning period women with such problems were identified and sent to Gosford Hospital, so it is good to now have that backup.

The delivery suite obstetric facility was built some considerable time ago by coalition health Minister Peter Collins in a pathetic attempt to construct a building, knowing full well it would not be staffed in the lead-up to the 1991 State election when it was thought that the Wyong seat was somewhat marginal. The previous coalition Government's approach to capital works was based on a resource allocation formula and was totally capital driven.

The former Government did not worry about providing recurrent expenditure to ensure that those facilities could be used. It was interested only in constructing the building, not in providing a service. Under its resource distribution formula this Government must demonstrate where the recurrent expenditure will come from before capital expenditure is committed, that is, where the money will come from before a building is built. That is an exhaustive process which includes management studies. In short, this Government would not have a building uncommissioned for several years.

The cost of running the delivery suite at Wyong Hospital is not small; it is approximately \$1 million per year. When the Leader of the Opposition and the Deputy Leader of the Opposition were health Ministers they were not interested in providing that sort of money to the Wyong electorate, and had no intention of providing a service. The former Ministers were interested only in the show-pony approach of having the official opening, not in providing funds for the unit to be fully staffed and operational. The Minister for Health should be congratulated on his commitment and dedication to ensuring that the women of Wyong electorate receive good treatment in the delivery of their babies.

Mr FACE (Charlestown - Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [5.19 p.m.]: I thank the honourable member for Wyong for raising this issue. I shall refer his comments to the Minister for Health with a notation relating to those who run the new maternity and obstetrics facility at Wyong. The honourable member rightly said that Wyong, whose population is burgeoning, unfortunately did not have adequate services for those who wish to be confined in hospital. As Fred Daly once said, a child could have no better start in the world than to be born in a labour ward. I congratulate the honourable member for Wyong on his continued interest in his electorate.

TAXI TRANSPORT SUBSIDY SCHEME

Mr MERTON (Baulkham Hills) [5.19 p.m.]: I have been asked by Mr Malcolm Campbell of Baulkham Hills to raise with the House his concerns relating to the refusal of the application of his daughter Helen under the taxi transport subsidy scheme. Helen Campbell is 25 years of age. She suffers an intellectual disability and is in receipt of an invalid pension. Apart from suffering an intellectual disability, she has faced a lot of pain following an unsuccessful hip operation. Her father is very concerned about Helen's quality of life as she is currently confined to her home following lengthy medical treatment. Helen's hip replacement operation took place in 1995 but unfortunately it was not successful. It is very sad - indeed, tragic - to hear of the plight of one so young as Helen. If Helen had suitable transport she could work at Cumberland Industries, which is an excellent employment avenue located within my electorate. That employment would also enable Helen to mix

with other young people, which would be to her benefit. This employment could only improve Helen's enjoyment of life.

Helen Campbell first applied for inclusion in the taxi transport subsidy scheme in April of last year but her application was rejected. After many

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months of pain and suffering Helen underwent a further operation a few months ago. Helen's father brought to my electorate office her X-rays, which show the large steel pins now holding her hip together. Helen has been very brave throughout her ordeal, and I can fully understand her father's frustration that transport is not available to enable her to improve her situation. After the last operation Helen submitted another application in August.

Following my representations on her behalf to the Minister for Transport, whose presence in the Chamber I acknowledge, his Parliamentary Secretary responded on 22 October that her application had once again been rejected, and advised Miss Campbell to approach Baulkham Hills Community Transport Project Incorporated to see if that organisation could provide transport assistance. This was duly done. On 5 November the general manager of Baulkham Hills shire council, David Mead, wrote to me to say that it is difficult to provide a regular individual daily service to Helen. The problem is that the community transport service relies heavily on volunteers to satisfy individual transport requests. These requests are usually for one-off visits to and from a hospital or doctor. Mr Mead said in his letter:

It is early days in the development of transport for people with disabilities as at present the projects are only trialing low floor buses in some areas of Sydney. Ideally the inclusion of Helen's disability as eligible for a taxi transport subsidy scheme would assist in this type of transport.

I call upon the Minister for Transport and the Minister for Disability Services to look into this matter to see what can be done to help Helen. Here we have a young lady who is keen to participate in the work force but has no transport to get there. Surely some arrangement can be made to meet her needs. The Campbell family is close knit and needs assistance. I know that the Minister will have a good look at the matter and if possible assist the family. I thank the Minister for Transport for his presence in the Chamber.

Mr LANGTON (Kogarah - Minister for Transport, and Minister for Tourism) [5.23 p.m.]: I thank the honourable member for Baulkham Hills for giving me notice that he intended to raise this matter. The taxi transport subsidy scheme was introduced in 1981 in recognition of the difficulty of people with severe and permanent disabilities using public transport systems. Those who are eligible receive a half-fare subsidy on taxi fares, to a maximum of \$25. I understand that Miss Campbell applied to join the scheme in April 1995 and again in April of last year. I am advised that her applications were assessed by the Department of Transport based on information provided by her doctor. I am advised that both applications were rejected on the basis that her condition was not permanent and was considered likely to improve to the extent that it would allow Miss Campbell to use public transport.

As I said, an applicant's disability must be severe and permanent for the applicant to be eligible for the scheme. I acknowledge the representations I have received from the honourable member for Baulkham Hills, and I sympathise with Miss Campbell. But, regrettably, I am advised by the Department of Transport that at no time has Ms Campbell been eligible for entry to the scheme. This was re-confirmed following a further application from Ms Campbell on 1 September this year. I am advised that in this application Ms Campbell's doctor said she could walk 100 to 200 metres using a walking stick, and that her condition was likely to improve. Therefore, her disability is not permanent. That may sound heartless, but only a limited amount of money is available, although the Government allocated an additional \$2.7 million to the scheme. But rules must be followed, and one criterion is a permanent and severe disability. I wish I had better information for the honourable member. All I can say is that I will re-examine the matter to see if there has been any change. If Ms Campbell's circumstances change in the future I will certainly reconsider her application.

DEATH OF DOROTHY AND MAREE CUBBON

Ms HALL (Swansea) [5.25 p.m.]: I draw the attention of honourable members to an accident on the Pacific Highway south of Swansea on 5 March this year that claimed the lives of Mrs Dorothy Cubbon and her daughter Maree Cubbon. The accident happened at 7.20 p.m. on an extremely rainy night - the conditions were dreadful. Maree and her mother operated a bridal boutique in Charlestown. They were on their way to visit a client who lived on the central coast when the car in which they were travelling crossed the centre line and was involved in a head-on collision with a north-bound car. The accident happened on a relatively new stretch of road that had been built to by-pass the bends south of Swansea. When accidents like this happen we always ask why. Yesterday the Coroner delivered his findings on the accident.

I take this opportunity to publicly express my condolences to Mr Norm Cubbon, who is a friend of the Minister for Gaming and Racing, and to his family. There is nothing more sad than having someone you love so tragically taken from you

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without even having a chance to say goodbye. Following the accident the Cubbon family contacted me and expressed serious concerns about the condition of the road where the accident took place. They believe the accident happened because there was excess water on the road and could have been prevented if there was a barrier in the centre of the road separating the north-bound and south-bound traffic. The assertion made by the Cubbon family was supported by a number of local residents, who wrote letters to me expressing concern about safety on the stretch of road where Mrs Cubbon and her daughter were killed.

As the family lived in the electorates of my parliamentary colleagues the honourable member for Wallsend and the honourable member for Charleston, I referred them to their local members. I know that both honourable members have made very strong representations on behalf of the Cubbon family and have been awaiting the result of the Coroner's inquiry. The Pacific Highway south of Swansea has always been of great concern to me as there have been many fatalities on that stretch of road over the years. In fact, my brother-in-law was killed on that road in the 1970s. More recently, the road has been upgraded but accidents still happen there. It was because of this accident history and the concerns of local residents and of the Cubbon family that I made representation to both the Hunter region traffic facilities section of the Police Service and the Minister for Roads, even though the Cubbon family did not live in the Swansea electorate.

I was so concerned about the condition of the road and the issues raised by the Cubbon family and local residents that I inspected the accident site, together with my colleague the Minister for Racing and Gaming and the Hunter regional manager of the Roads and Traffic Authority. Our inspection and the information I received from the police was inconclusive as the matter was subject to a coronial inquiry and no conclusion could be reached until that inquiry was completed. The Police Service and the RTA could not provide firm information until the inquiry had been completed. Yesterday the Coroner, Mr Morahan, found that the road south of Swansea was a major contributing factor in the tragic accident that claimed the lives of Dorothy and Maree Cubbon. He found further that drainage and excess water in the area were a contributing factor, along with the fact that there was no barrier between the lanes of traffic.

The Coroner has recommended that the "slippery when wet" sign erected on the highway since the accident be retained and that an additional sign be erected at the site. In addition, the Coroner recommended that the Roads and Traffic Authority extend the barrier between the north-bound and south-bound lanes. The condition of the road south of Swansea is paramount to the safety of those travelling on that section of road. As a result of the Coroner's findings I contacted the Minister for Roads today, as did my parliamentary colleagues the honourable member for Wallsend and the Minister for Gaming and Racing, to ask him to respond to the Coroner's recommendations. This section of road must be made safe, and I am sure the Minister will act swiftly to investigate and implement the Coroner's findings. I thank the Minister for Roads for being present to respond to this serious matter.

Mr SCULLY (Smithfield - Minister for Roads, Minister for Public Works and Services, Minister for Ports, Assistant Minister for Energy, and Assistant Minister for State and Regional Development) [5.30 p.m.]: The two fatalities on the Swansea bends on the old Pacific Highway concern me as Minister for Roads and the

local members, the Minister for Gaming and Racing, the honourable member for Wallsend and the honourable member for Swansea, in the wider Newcastle area.

The Coroner found that a major contributing factor to the accident was the lack of a barrier between the lanes of traffic, and excess water on the road. I have asked the Roads and Traffic Authority for advice as soon as possible in response to the Coroner's findings. This is an important issue and it requires a positive response from the Government, and I assure the three members that they will receive a positive response from me. I thank the honourable member for Swansea for bringing the matter to my attention.

ISOLATED PATIENTS TRAVEL AND ACCOMMODATION ASSISTANCE SCHEME

Mr J. H. TURNER: (Myall Lakes) [5.31 p.m.]: Mrs Ovens, a constituent of mine from Smiths Lake, has approached me in regard to the isolated patients travel and accommodation assistance scheme, otherwise known as IPTAAS. Some months ago Mrs Ovens was diagnosed as having a detached retina that needed immediate attention at Sydney Eye Hospital. Her consulting doctor arranged for her to be admitted the following day. She arranged for a friend to take her to the Countrylink stop, in the Smiths Lake area, and she connected with a train at Newcastle and travelled to Central railway station. With a pensioner concession, the trip cost her \$17.50.

If she lived further south-west, in Dungog, the trip would have cost her \$3 because the CityRail
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concession applies in Dungog - and I believe it also applies in Bathurst and Nowra. That is one example of the inequities suffered by country New South Wales. When Mrs Ovens arrived in Sydney she caught a cab from Central railway station to the Sydney Eye Hospital, on the advice of her doctor. That trip cost her \$6. She was subsequently treated for the detached retina, and then caught a Countrylink coach from Sydney to Smiths Lake, at a cost of \$26.50. Again, if she lived further away she would have paid only the concession fare.

Mrs Ovens was told that she could make a claim under the IPTAAS scheme and was given a four-page claim form to fill out. She had to arrange for her Sydney doctor and her country doctor to sign it, disclose a number of personal details, and then lodge the form. The scheme provides that the patient must make an initial contribution of \$40. When Mrs Ovens filled out the form she did not notice that provision. When she had not received a payment after four weeks she made an STD call to the Department of Health at Tamworth. The manner in which she was treated was less than satisfactory. She was told that it takes some time to process the claim.

Six weeks after she lodged the form Mrs Ovens received a refund of \$8 for her trip to Sydney. Bearing in mind that she had to buy a couple of stamps to send the form to Sydney and then to the department, and had to make a couple of STD calls, she probably ended up in a cost-neutral situation. Mrs Ovens told me that if she had realised she had to go to all that trouble and had to disclose details of her private life for a refund of \$8, she would not have bothered to proceed with the claim.

The scheme discriminates against people in rural New South Wales. If Mrs Ovens lived in Sydney - or indeed in Bathurst, Dungog or Nowra, the CityRail catchment areas - it would have cost her \$7 to make the trip to Sydney, which is \$1 less than she received from IPTAAS. She could have travelled to Central railway station, then perhaps caught a train to Martin Place for \$1, and could have walked from Martin Place to the Sydney Eye Hospital; or she could have caught a cab from Central to Sydney Eye Hospital for \$6. At the very least the \$40 excess should be removed. The administrative costs of processing the four-page detailed form probably would have been more than the \$8 refund that she received. Mrs Ovens does not believe it was worth the effort.

Mr FACE (Charlestown - Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [5.36 p.m.]: I will refer the matter to the relevant Minister.

CONISTON WOODLANDS

Mr SULLIVAN (Wollongong) [5.36 p.m.]: In September last year I referred to the Coniston woodlands,

which is an area of remnant woodland between the major residential area of Coniston and Mount St Thomas and the industrial zones associated with the flat products area of BHP, which leads into the inner harbour and further south to the steel plant itself. The area is transected by a road and rail system, but nonetheless is highly valued. BHP has donated some of the land, which contains old-growth vegetation, and the State Rail Authority has undertaken to do likewise with land within the rail triangle.

This land is the last remnant of extensive woodland which surrounded Tom Thumb Lagoon, and within this area there is a section of that lagoon, which is in its original state and is tidal, notwithstanding that it is on the inland side of the railway line. There are major industrial plants on the eastern side. The area has high local conservation value and historic significance. If a proposal for major development were submitted for the area today it would be rejected on the grounds of its environmental sensitivity. It also acts as an environmental barrier or buffer between two divergent land uses - residential and heavy industrial. For that reason its preservation and restoration are of great importance to the local community.

Until now a significant amount of work has been done not only with the Coniston woodlands but also with the Tom Thumb Lagoon restoration at south Wollongong. Much of that has been funded under the Landcare environment action plan, LEAP, assistance program of the previous Federal Government and also by volunteer community groups. The programs have been specifically involved in the removal of weeds, both exotic and noxious; an extensive replanting program, particularly around the Tom Thumb Lagoon; the construction of boardwalks and walking trails; and interpretative signage and wildlife habitat creation. For that reason it had a potentially valuable role as a passive recreation area.

The financial cutbacks by the Federal Government have meant that the LEAP program has stopped: no work is being undertaken. Although the LEAP program provided training and enhanced the skills of young unemployed people in obtaining work, the community also benefited from work that would not otherwise have been undertaken because of the high cost of labour. That work simply would not have been funded by any program other than through the LEAP-type programs. Restoration work

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has commenced, but has not yet been completed. Under the present Federal Government there is little likelihood of further funding being allocated in the foreseeable future.

It is hoped that some of the funds yielded by the part-privatisation of Telstra will be utilised for environmental purposes such as this. However, no-one can be sure if and when that funding will be made available. I ask the Minister for the Environment to consider whether government funding can be made available to enable this work to continue. The community would appreciate that funding being allocated, as it would achieve a result of long-lasting benefit to the Illawarra community. Because of the presence of so much heavy industry in the Illawarra, the area has been degraded over the past 70 or 80 years.

Mr FACE (Charlestown - Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [5.41 p.m.]: I commend the honourable member for Wollongong for his continued interest not only in the environment but also in the Illawarra area, which, as he indicated, has been subjected to a great deal of degradation by industry over a long period of time. The same thing occurred in the Hunter region, and it took BHP and other major companies a long time to green up industrial sites and make them look attractive. The honourable member for Wollongong has given another example of Federal cutbacks and New South Wales having to pick up the freight on good programs that were introduced to assist young unemployed people. As the honourable member has rightly pointed out, those programs would not have been implemented without the necessary funding.

The racing ministry has completed many projects in country centres. I am always amazed that conservative governments with a rural base put an axe through all sorts of programs that are designed to assist those in country areas. The Tom Thumb Lagoon and the woodlands adjacent to Coniston have suffered greatly because of unplanned industrial growth at a time when the environment was not considered. I will refer the honourable member's concerns to the Minister for the Environment.

NATIONAL KOREAN WAR MEMORIAL

Ms SEATON (Southern Highlands) [5.43 p.m.]: I bring to the attention of the House a significant national project, the Australian National Korean War Memorial, which Australian veterans of the Korean War are endeavouring to have built in the national capital, Canberra, as an overdue and appropriate memorial to those Australians who served and died in Korea between 1950 and 1953. I am pleased to say that the project has received the support of the Prime Minister, the Federal Government, the New South Wales Government, and other States and Territories. It is important for all members of this House to extend their support to the project, which is presently in a important stage of corporate and community fund raising.

The Australian National War Memorial Korean War Memorial honorary committee is chaired by the Prime Minister, John Howard, and co-chaired by the Hon. Tim Fischer and the Hon. Kim Beazley. The New South Wales committee chairman is Rear-Admiral Ian Crawford, who is ably leading the project and encouraging community and decision-maker participation. I must declare an interest in this project, about which my family has a great deal of pride. My father, John Seaton, MBE, served in Korea in the Royal Australian Air Force and has the honour of representing the RAAF on Rear-Admiral Crawford's New South Wales committee. He has kept me up to date on progress and I share the hopes of all committee members that the memorial may soon be completed.

As an Australian one of the places of greatest importance to me is Anzac Parade in Canberra, where the symbols of some of our nation's most defining moments and enduring characteristics are located. At the top is the Australian War Memorial and museum, which houses valuable artefacts and memorabilia of Australians who served in all world wars. Very precious to me is the history of the Australian Light Horse, in which my grandfather served in Palestine, and of my grandfather's brother, who served in Gallipoli. The steps of the memorial give way to the vista towards Parliament House with the Vietnam memorial on one side. That is a magnificent memorial to all those who served and died in Vietnam.

It would be fitting to stand on those steps and see somewhere in that precinct a memorial to those who served in Korea and to the 339 Australians who lost their lives there. Recently I met with members of a Korean parliamentary delegation, which visited this House. I was moved by the comments that many of them made about their high regard for Australians and their acknowledgment of the contribution and sacrifice that 17,000 Australians made in support of their freedom. A competition for the design of the memorial has been held and a design will be selected in the coming months by the committee.

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But the hard work of fundraising is just beginning. I am pleased that this project is receiving the support it deserves from all governments. The task now falls to all honourable members to make sure their communities are aware of this project, and to do their bit to encourage community support. I assure the Australian National Korean War Memorial Committee of the support of members of the coalition and, I am sure, every other member of the House. I am aware of the particular interest of the Leader of the Opposition, the Leader of the National Party, and the honourable members representing the electorates of Monaro and Pittwater, all of whom have had some contact with this project. It is hard to understand why, until now, the service and sacrifice of Australians in Korea has not been properly commemorated with a national monument. I look forward to seeing this tribute become a reality.

GONINANS HONG KONG CONTRACT

Mr HUNTER (Lake Macquarie) [5.48 p.m.]: I raise an issue of great importance to the people of the electorate of Lake Macquarie, to the City of Lake Macquarie, and to the Hunter region, New South Wales and Australia. That is the winning, this week, of a major contract by Goninans. Goninans is a company that is well known for the quality of its work in building trains. The company has certainly done a great deal of work to modernise the New South Wales Government fleet. Goninans has won a \$A200 million contract which is worth in excess of \$HK1 billion to modernise the Hong Kong rail passenger cars, known as the mass transit railway

system, the MTR.

Goninans has been trying to secure that contract for some time. It is of major importance to Australia and to its place in Asia. It is certainly of major importance to Lake Macquarie, because Goninans engineering section is located in Cardiff. Cardiff is in the electorate of my colleague the honourable member for Wallsend. I spoke to him today about this good news and he is certainly keen to pass on his congratulations to Goninans on winning the contract. He is proud to have that facility located in his electorate. The contract will secure jobs for the many people who work in Goninans engineering section at Cardiff.

The major design work for the project will be undertaken at the engineering and design centre at Cardiff. That centre uses state-of-the-art technology. The centre will be on line to the Hong Kong design office to enable its customers to see designs taking shape on the screen instead of sending drawings back and forth between the two countries. That will allow the mass transit railway system to have immediate input into the design to ensure that all its design requirements are met. On the few occasions I have visited Hong Kong I have met Goninans representative Mr Mick Hayes. The Minister Assisting the Premier on Hunter Development knows Mick Hayes well, and he certainly knows the good work Goninans has carried out in New South Wales. On one occasion Mick and I also met with Austrade representative Janelle Drayson.

I congratulate Austrade and the people of the Australian Consulate in Hong Kong on the work they have done to assist this Australian company to win this major contract. The contract is important for the Lake Macquarie and Newcastle areas, and for the Hunter region generally, because it places Goninans at the forefront of railway work throughout Asia. Many other similar contracts will come up in Hong Kong and throughout Asia. If Goninans can win those contracts, that major industry will stay in Newcastle and it certainly will create many jobs. This contract is good news for the people of Lake Macquarie. I congratulate Goninans on the work it is doing in the region.

Mr FACE (Charlestown - Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [5.51 p.m.]: I thank the honourable member for Lake Macquarie for bringing this matter to the attention of the House. The win by Goninans of a \$200 million export contract is good news for the Hunter. Goninans certainly won the contract because of its advanced technology and world-class competitiveness. Recently I had the opportunity to visit Victoria to inspect the Bendigo railway workshops, which have been taken over by Goninans. The workshops at Spotswoods include the locomotive maintenance depot for Australian National Railways, which is considered to be the best in the Southern Hemisphere. Their other workshops have been responsible for the refurbishment, at the old Preston depot, of the Melbourne tram fleet. I inspected 20 light rail vehicles that are to be exported to the Kowloon-Canton Railway Corporation as part of a \$55 million contract. The superstructure of those vehicles was built at Goninans Newcastle plant.

Goninans is an Australia-wide company. Rather than cry out for help like many other companies, Goninans got into the world marketplace. It has a skilled work force which uses state-of-the-art technology at its Cardiff engineering and design centre. The centre is on line to the design office in Hong Kong, which enables customers to see the designs take shape on screen instead of

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having to send drawings back and forth. That process allows the mass transit railway system to have immediate input into the design, thus ensuring that all its requirements are met. Goninans is to be congratulated on its advanced technology. I wish the company well for the future. Recently I met with the Hong Kong economic and trade representative Phillip Chok and his wife in Newcastle. He has taken an interest in the Hunter, and I am sure this will be the first of many of his visits.

BOMBALA SOFTWOOD OPERATIONS

Mr COCHRAN (Monaro) [5.53 p.m.]: On behalf of the residents of Bombala, which is in the south of my electorate, I raise concerns about the future of CSR operations at the Bombala softwood mills and about the proposal by the coalition Government and CSR in 1995 to develop a major processing plant employing 450 people. That proposal was repeated after the 1995 election by Premier Carr. Because of his experience of

Oberon, the honourable member for Bathurst, who is in the chair, would know that employment opportunities presented by the softwood operations of CSR are of considerable benefit to the communities in which they are located. Bombala is no exception. The mill at Bombala employs local people to process second-grade pine into pallets, boxes and similar products. However, the thinnings from the pine forest surrounding Bombala were the subject of a tender from softwood mills across Australia - indeed, throughout the world - to develop a product for sale overseas. That project would have generated local employment.

Prior to the 1995 election a lease agreement was reached with CSR. The agreement was met with great fanfare, and Henry Penns and others associated with the announcement encouraged me to publicly announce the good fortune that the new mill would bring to Bombala. To date no progress has been made with the new mill. The town is in despair because the current Government has effectively wound back the hardwood industry. That has resulted in significant job losses. The Bombala and Eden communities are suffering immense financial distress as a direct consequence of the Government's hardwood policy. It behoves all Government members to visit Bombala and Eden to witness the consequences of the decisions that are being made by the Government in relation to the hardwood industry.

It is rather bizarre that a government that professes to represent working-class people has taken away productive jobs from people in the South-east Forest region. Regardless of environmental arguments, the Government has the numbers and claims to have a mandate to close down the hardwood industry. However, the Premier promised that the CSR project would proceed and 450 jobs would be provided to replace the lost jobs in the hardwood industry. That promise has not been honoured in any shape or form, and I hold the Premier and his Government directly responsible for the economic situation in Bombala. I plead with the Minister for Gaming and Racing to at least ask the Minister for Land and Water Conservation how he intends to address the matter. I understand he has a binding contractual arrangement with CSR to take the thinnings. Other companies would still be able to utilise those thinnings and thereby create jobs.

From my observation, CSR has not fulfilled its contractual agreements with State Forests. It certainly has not done so with the people of Bombala. It has a moral obligation at least to provide a specific statement about the future of its Bombala operations. I have observed the growth of CSR for many years and I consider it to be an honourable company. In my discussions with Henry Penns in 1995 I was certainly confident that CSR intended to honour its commitment to establish the Bombala mill. It is regrettable that it has not done so, whether for market or other reasons. The least CSR can do is issue a statement about the future of its Bombala activities and the possibility of future employment. If Bombala is not to gain any significant benefit, CSR should at least say so.

UNEMPLOYMENT

Mr WATKINS (Gladesville) [5.58 p.m.]: I take this opportunity to remind the House of the concern in my electorate and, indeed, in most parts of this State about the high levels of unemployment. The extent of this immense social tragedy and the need for a new approach to its nature and impact should be an undeniable reality in every electorate. Widespread unemployment remains the most socially divisive, economically negative and personally destructive problem facing the State and nation. In my electorate I see the impact on middle-aged men forced from meaningful employment by brutal redundancy plans; on women aged over 50 who have the skills, motivation and desperate need to work; on those coping with mental illness or disabilities trying to retake their places in the wider community; on residents from non-English speaking background; and, perhaps most disappointingly, on young people, including school leavers, who are so keen to find the employment that is essential for their future life choices and personal definition.

All members of Parliament know the impact of unemployment on these people, including the loss of hope, ill health, destructive impact on families, and

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waste of precious economic and human resources. One statistic should concern us all. On 8 September the *Sydney Morning Herald* reported a truly disturbing report from the Metal Trades Industry Association, Australia's biggest manufacturing employer body, which revealed that the full-time job market was stagnant and

in crisis. Full-time employment was virtually the same as it was seven years ago, despite the growth in that time in the working-age population by 1,318,000, or 10 per cent. The job growth that had occurred was almost entirely in part-time positions. Especially disturbing in the report was the fact that men had been hardest hit, with more than one in 10 male full-time jobs having disappeared since 1990.

Distressingly, the report made the point that any periods of economic recovery since that time had been too weak to restore those lost jobs. They are generally the jobs of middle-aged men and women who are beyond retraining and who leave the work force forever. Those are disturbing, frightening statistics and issues. I took the opportunity of raising some of these issues earlier this session when I had the privilege of seconding the Address-in-Reply motion. As the seconder, I had the opportunity to respond to the Governor's outlining of job creation and job security as key objectives of the Carr Government. That debate was concluded on Tuesday, when members of the House presented the Address-in-Reply to the Governor at Government House.

The presentation of the Address-in-Reply, a significant and well-established formality, is an important tradition in this Parliament. It is one of the means by which we are all reminded of the sovereignty of the people of New South Wales over our activities as members of Parliament. I speak for my constituents, therefore, when I indicate my disappointment at the boycott by the New South Wales Opposition of the formal presentation of the Address-in-Reply to the Governor. The people of the Ryde and Gladesville areas want to know why the honourable members representing the electorates of Ermington, Eastwood and Lane Cove took part in such a tawdry stunt. I find it hard to understand how the Opposition could embarrass the Governor in this way, after its almost daily statements in supposed support of the Governor, his position and the importance of his role in the parliamentary process. The actions of Opposition members reveal their words to be hypocritical.

As the first parliamentarians to be presented to the Governor, the honourable member for Badgerys Creek and I saw the confusion and concern caused to the Governor's staff by the Opposition's childish tactics. Opposition members should apologise to the Governor and explain to their constituents and the people of New South Wales whether they intend to walk over and disregard the traditions of this Parliament. In conclusion, I should like to say a few words about the approach of the Federal Government to unemployment. I appeal to the Federal Government to change its tack, especially in the way that it speaks about the unemployed. Whilst once it may have been acceptable in the eyes of some to be dismissive of the plight of the unemployed, unemployment is now too close to home. Almost everyone in the work force now realises that the redundancy offer presented to their co-workers last week may be offered to them this week.

Job insecurity is rife in the community, and it changes attitudes towards unemployment. Hopefully, that reality will dawn on the Federal Government and that Government will finally cease blaming the unemployed. The rhetoric, policies and arguments that the Howard Government has pursued since its election have been designed to demonise the unemployed, to lay blame on them, and to diminish the human needs of those without work. It is time for the Federal Government to leave aside the politics of resentment and division and to bring to the fore policies that will assist people to deal with this most terrible social and economic state.

Mr E. T. PAGE (Coogee - Minister for Local Government) [6.03 p.m.]: I commend the honourable member for Gladesville for speaking out about the Opposition's outrageous boycott of the presentation of the Address-in-Reply to the Governor. That was an insult to the Governor by a group that parades itself as a great supporter of the institution of his office. As the *Bible* tells us, by their fruits ye shall know them. Opposition members have rubbished the Governor and they have a case to answer to the people of this State. They present the excuse that it is somehow the fault of the Government. It is stupid for them to adopt the principle that the Government's pattern of behaviour determines their attitude. Those who adopt such a principle are foolish - and that is fairly easy to believe of Opposition members.

It is my hope that Opposition members continue to peddle such rot, because the community recognises that the Opposition does not believe in the institution of the Governor and is divisive and hypocritical. The Leader of the Opposition, being a republican, may well believe that boycotting the presentation of the Address-in-Reply was an appropriate way of expressing his support for the republican movement, but I cannot understand how

those who proclaim to be monarchists could insult the Governor in such a way. Such action highlights their hypocrisy. I commend the honourable member for Gladesville for his concern about the unemployed of his community. Unemployment is a social tragedy. There is nothing worse than having no prospect for a fruitful job in the near future or, for some, in the long term.

RYDE HOSPITAL INTENSIVE CARE UNIT

Mr TINK (Eastwood) [6.05 p.m.]: Only a couple of weeks ago the honourable member for Gladesville assured us that all was well with the future of intensive care at Ryde hospital. But matters that have just come to my attention strongly suggest otherwise. Apparently, the chief executive officer of the hospital has made arrangements for a Dr Chung to take over intensive care at Ryde from Dr Kalpage as from 11 November. Dr Chung is a paediatric intensivist, and the Government's plan was that he would be based at Hornsby and split his time between Westmead and Ryde. However, Dr Kalpage tells me that he took an intensivist from Concord, Dr Terry Houlihan, to meet the chief executive officer. Despite the fact that Dr Houlihan said that he would be happy to take over from Dr Kalpage on the same basis that Dr Kalpage held the job, the chief executive officer did not take up his offer.

I understand that in a recent edition of *Newsryder* the chief executive officer told staff that all was well with the intensive care unit. However, on 11 November Dr Chung did not turn up, and I understand that he has now said that he will not be available until March 1998. In the meantime, the chief executive officer told Dr Kalpage that he did not have the money to pay two people and Dr Kalpage agreed to vacate his room from 11 November and finish up on 1 December. Dr Kalpage's leave has been organised accordingly and he leaves on 1 December, having in the meantime cleared out all his reference books from his room. In addition, Dr George, who has worked as the intensive care unit registrar at the hospital, providing crucial coverage at night, has left to take up an appointment at a private hospital.

At this point I pay a special tribute to both Dr Kalpage and Dr George, who have worked tirelessly for the wellbeing of the people of Ryde under very trying conditions, as have their very dedicated staff. Thanks to the way in which the intensive care unit issue at Ryde has been handled by the Government, however, the hospital is at crisis point. I can only conclude that the failure to consider Dr Houlihan and the decision to proceed with a satellite intensive care unit arrangement based at Hornsby with a doctor who has since not turned up clearly indicate that the Government is proceeding with a plan to remove by stealth the acute care capacity of Ryde hospital. If the Government and the honourable member for Gladesville want to keep any shred of credibility about maintaining Ryde hospital as an acute care hospital, it is time for them to appoint a new chief executive officer who will put these matters right.

Mr Watkins: The intensive care unit is not going to close, though.

Mr TINK: The honourable member for Gladesville should listen to what I have to say. I had not intended to present a private member's statement this evening. I thank the honourable member for Strathfield for allowing me to speak in his allocated time this evening so that I could raise this matter. I do not draw attention to this issue lightly, and I do not call for the Government to remove the chief executive officer of Ryde hospital lightly. However, senior doctors from the hospital have today contacted me on this issue. They are distressed and disturbed about what is going on. They see the bottom falling out of the intensive care unit; a doctor who had said that he would take up appointment not doing so; a doctor who has served the hospital for a long and faithful period being mucked about and not being prepared to take it any longer; and an intensive care unit registrar also fed up with the situation and having left for a private hospital.

Under this Government the Ryde hospital intensive care unit is a shambles. The honourable member for Gladesville can say all he wants, but that is the fact. If he cared to phone some of the doctors at the hospital he might learn about what is happening. For a long time I have suggested the honourable member for Gladesville do what the coalition Government did: prevail, through his Minister, upon the Northern Sydney Area Health Service to bring some weight to bear to ensure that the matters at Ryde hospital are put right. I might add that

that is something the Deputy Leader of the Opposition, when he was Minister for Health, was always prepared to do. The honourable member for Gladesville cannot bury his head in the sand, and neither can the Minister.

The Government cannot bury its head in the sand and say that somehow everything will be managed from Hornsby hospital. That is a botched outcome, it is an outcome that involves a satellite arrangement that by its very nature downgrades Ryde. In any event, what a joke to have a paediatric specialist splitting his time at Westmead and Ryde,

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and not being directly involved at Ryde but in effect working under the control of Hornsby. All that is written against a background in which the current intensivist at Ryde took an intensivist from Concord to the chief executive officer and explained that the intensivist from Concord was happy to work on the same basis as he had. I have spoken to the honourable member for Gladesville about this matter. I still have goodwill towards him in general, but I point out that he should get on to his Minister to prevail upon the Northern Sydney Area Health Service, remove the chief executive officer, and get this matter fixed. Both the honourable member for Ermington and I want Ryde hospital to prosper. [*Time expired.*]

[*Mr Acting-Speaker (Mr Clough) left the chair at 6.10 p.m. The House resumed at 7.30 p.m.*]

INTERNATIONAL TRANSFER OF PRISONERS (NEW SOUTH WALES) BILL

Second Reading

Debate resumed from an earlier hour.

Mr MERTON (Baulkham Hills) [7.30 p.m.]: Earlier I was talking about the procedures involved with regard to sentences for prisoners returned to Australia from overseas. I had dealt with the situation of effectively continuing the terms imposed by the court of origin, or examining a mechanism whereby the term of imprisonment is fixed by an Australian tribunal or court. I understand that procedure - the substitution of a different sentence - is covered by the expression "converted enforcement". It is contemplated that the Australian Government or individual State governments would generally use the continuing enforcement method. However, the method used in each individual case would depend on the arrangement in the transfer agreement.

It is possible that Australia could have different agreements with different countries, that is, a converted sentence agreement or a continuing sentence agreement. As I said, a prisoner transferred to Australia may have been sentenced in a foreign country to a term of imprisonment of 35 or 40 years. The reality is that, if the sentence continued on its original basis, a prisoner could be incarcerated in a New South Wales gaol for a period of 35 or 40 years. That would present a logistical problem and would be an impost on Australian taxpayers. I understand the cost of keeping a prisoner in maximum security is of the order of \$50,000, although that would no doubt vary as the years went by. That would impose a financial burden on the State.

The general principle that we should take note of is that, as I understand the legislation, any prisoner sent to Australia would be regarded as a Federal prisoner. In other words, Federal crimes legislation would apply to that prisoner's incarceration. Honourable members are aware that under the former State Government remissions of sentence were abolished in New South Wales. Under the truth in sentencing legislation a prisoner sentenced to penal servitude for 10 years with the minimum period set at seven years is required to serve a minimum of seven years and there can be no further remission of that term. I have to query whether the proposals in the legislation under debate are workable. It is possible that a number of prisoners in New South Wales gaols who are subject to Commonwealth law would receive remissions of their sentences, whereas prisoners sentenced under New South Wales legislation would not be granted remissions of sentence.

As I mentioned earlier, transferred prisoners who had received lengthy sentences in foreign countries could be imprisoned for many years. It is important to note that, from the date of transfer to Australia, Australian law will apply to enforcement of sentences and that conditional releases or remissions will apply to Federal offenders. The Minister who has responsibility for the Department of Corrective Services from time to

time will have a difficult task explaining why a Federal prisoner is entitled to remissions and possibly to early release, whereas a prisoner sentenced under New South Wales State legislation will not receive the same benefits. In my view many prisoners eligible for transfer overseas would prefer to continue to serve their sentences in New South Wales gaols. Of course, that is purely hypothetical because these are completely uncharted waters and no-one knows how the legislation will work.

However, a number of prisoners would be reluctant to return to their country of origin, particularly if that country adopted a mechanism, so far as the exchange of prisoners is concerned, to effectively impose a substitute sentence. It would be within the terms of the proposed arrangement for those countries to impose a substitute sentence. In other words, prisoners sentenced to a 15-year term in Australia, if returned to their country of origin, might receive a substituted sentence and might end up serving 25 or 30 years. When the chips are down, I doubt that many foreign nationals would exercise their right to return to their country of origin. However, I believe that the majority of Australian prisoners who are serving sentences in overseas prisons, if not all, would choose to return to Australia. That would place an even greater burden on the State so far as numbers of prisoners

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in gaols is concerned. It is common knowledge that, although a number of correctional centres have been built in recent times, accommodation in those centres has been a problem for some years.

I understand that approximately 101 Australians are serving sentences in overseas gaols at the present time - 26 in New Zealand, 19 in Thailand and 13 in America; and, at the time of compilation of these statistics, 63 prisoners were awaiting sentence in overseas prisons. According to the Department of Immigration and Multicultural Affairs, approximately 632 prisoners currently held in Australian gaols would be eligible to be returned to a foreign country and some could be deported and released. I have grave reservations that those prisoners would be prepared to return to gaols in their country of origin because many of those gaols are not as well conducted or livable as the correctional institutions in New South Wales.

One argument commonly put forward as to why the exchange of prisoners arrangements should not exist relates to the element of mistrust or distrust of some overseas authorities. I do not want to hedge my bets, but if we return to their country of origin persons imprisoned under New South Wales truth in sentencing legislation the reality is that a deal could be done or some other circumstance arise whereby those prisoners could escape their original sentence in a country not as rigid in its law enforcement as Australia is. That is another negative. The legislation involves a consensual arrangement and it will be necessary to obtain the consent of the prisoner involved. That in itself causes problems because New South Wales authorities cannot divest themselves of prisoners to the country of origin. That is a one-sided arrangement to the benefit of the prisoner because a prisoner simply does not have to leave. The reality is that these are completely uncharted waters. If the legislation is passed, the Minister will have to monitor the flow of prisoners to determine whether New South Wales has more prisoners returning here than leaving. [*Extension of time agreed to.*]

A strong case on humanitarian grounds could be made for some prisoners. For example, a mother with young children who is incarcerated overseas and not able to come back to Australia -

Mr Kinross: Oh no, you are softer than Gerry Peacocke.

Mr MERTON: No, I am not soft. I am not talking about a mother who is a prisoner. In such cases the children are the innocent victims. I have reservations about the legislation. There are some aspects of it that I consider to be worthy of support. By and large it would appear that the negatives outweigh the positives in this legislation. Ultimately there will be no costs offset by prisoners going overseas. In my opinion incoming prisoners will substantially outnumber outgoing prisoners and the Australian taxpayers will be forced to pay the costs of housing prisoners for long periods.

In summary, I make a couple of points. Firstly, I am concerned that long-term prisoners will be returned. Secondly, those prisoners will be subject to Federal law, with a different set of rules compared with people sentenced under New South Wales legislation. I can well understand why the Minister has introduced this

legislation and I hope he will consider the concerns I have raised.

Mr ROZZOLI (Hawkesbury) [7.42 p.m.]: Like previous speakers, I also have mixed feelings in regard to this legislation. At the outset, I support the essential ethos of the legislation, that is, the humanitarian consideration for transferring to Australia prisoners who are presently in overseas gaols that are of a lesser standard than Australian gaols. A few nights ago I listened to an interview with a prisoner who had returned from Thailand after his sentence had been commuted. He came back to Australia in an extremely poor state of health. He said it was generally recognised that one year in a Thai prison is equivalent to five years in an Australian prison. In Thailand a sentence of 30 to 40 years is a combination of a life and death sentence. For that reason I have some support for this legislation. However, it is a two-way street and the legislation must make provision for both the transfer of prisoners to Australia and the transfer of prisoners from Australia.

I support the comments of other coalition members, that it is unlikely too many prisoners will return to their country of origin, given the differences of standards and conditions in Australian gaols compared with overseas gaols. This legislation is complementary legislation to that passed in the Federal Parliament. I know little of the history of negotiations between past Commonwealth and State Attorneys-General. However, it is evident that they scarcely looked after the interests of the States when they agreed to support the legislation, which has all the hallmarks of having been written by good and faithful bureaucrats, with very little reference to the community at large. It was passed in the Federal Parliament with the flick of a tick because Federal parliamentarians believed it to be sound legislation. It is certainly good legislation for the Commonwealth.

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There are provisions in the Commonwealth Act that Opposition members agree should be in the New South Wales bill. Appropriate procedures for an application to transfer a prisoner are to be made through the Attorney-General. In the case of the transfer of a prisoner from another country to Australia, we will give a reasonable assurance that the sentence imposed in that other country will be imposed in Australia. I have a fundamental problem with the possibility that prisoners in Australian gaols could serve quite disproportionate sentences compared with prisoners serving sentences in other countries for exactly the same crime.

I also have a problem with the provision in the Commonwealth Act which allows prisoners to choose where they complete the sentence of imprisonment in Australia. It is difficult to understand that provision because other provisions in the Act allow for consideration of other matters, including family connections and the possibility of rehabilitation. Quite clearly those matters should be considered by the authorities, but the personal wishes of an individual prisoner have little bearing on the matter. I am at a loss to understand why that section has been included in the Commonwealth Act. However, as it is part of the Commonwealth Act we are bound by that legislation in the approach we take to matters that come within our jurisdiction.

Another concern to me is the consideration of the length of sentence that may be served in this country. Two prisoners may serve totally different terms of imprisonment for the same crime, depending on whether they were sentenced in Australia or in another country. It is logical for Australian prisoners to expect some modification of sentences to reflect the Australian attitude towards a particular crime. That is fair enough and quite acceptable from our point of view. However, it then raises the question of a person having committed a crime in another country. Those persons commit crimes knowing them to be against the law of the country they are in, just as criminals in this country know they are offending against Australian laws when they commit crimes. Therefore, what one country may consider to be a heinous crime, may be considered differently in another country.

These factors must be borne in mind when we guarantee that on humanitarian grounds we will do all we can to remove a person from unsatisfactory imprisonment in some other country. These will be difficult considerations for the authorities to grapple with. An appropriate balance must be struck. Clearly, if sentences that we believe are excessively harsh are modified, or if a prisoner has gone through harsh circumstances and therefore deserves some remission, that may discourage transfer countries from agreeing to a transfer. Balancing those elements will be difficult. The guidelines under which we judge how to handle such situations and the

circumstances in which a transfer could be considered must be stronger.

The bill provides for the length of sentences to be adjusted. However, we cannot impose a more severe form of deprivation of liberty than the sentence imposed by the transfer country or tribunal. Of course, some crimes committed in other countries do not carry the same penalty as we deem appropriate and that results in the reverse of the situation to which I referred earlier. In executing this legislation the Government must be careful to ensure that humanitarian grounds, which are the grounds on which I support the general thrust of the legislation, are the principal grounds on which transfer of a prisoner is considered. Not all persons convicted in an overseas jurisdiction should have the right to be transferred to this jurisdiction. After all, they committed the crime in another jurisdiction, they know the penalties in those jurisdictions and *prima facie* they should abide by the laws of that country, including the penalty.

The honourable member for Baulkham Hills indicated that the Commonwealth Act provides that prisoners returned to Australia under this legislation will be considered to be serving a Federal sentence and that they are Federal prisoners. This is where the New South Wales Government gets bludgeoned by the Federal Government, no matter what its political persuasion. When prisoners are brought back to Australia to serve Federal sentences, who will pick up the costs of that, apart from the costs of bringing them back, of negotiations and so on? Of course, the recipient State or Territory government will pick up the costs. If the Commonwealth considers it appropriate that prisoners are brought back and serve Federal sentences, the States should be compensated by the Federal Government for the cost of maintaining those persons in prison in Australia for the time they serve. The State Attorneys-General, whoever they may be, have probably been less than diligent in looking after the States' interests in signing an agreement that will place a heavy impost on State governments.

Technicalities relating to the operation of the legislation highlight the fact not so much that this is bad legislation in its intent but that it is not good legislation in terms of its operation. The Federal Government should merely facilitate the transfer of prisoners to the States and Territories. Basically, the transfer of prisoners from the transfer country to the States and from the States to the transfer country

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should not come under Federal Government jurisdiction. That weakens the capacity of the States to negotiate the most appropriate terms of transfer of prisoners. The transfer of prisoners who have endured severe deprivation in overseas prisons will result in increased costs to the State in terms of health administration and rehabilitation, in addition to the costs of incarceration.

While I have no objection to the States providing health services and rehabilitating prisoners - at the outset I said that we as a humane country should take those humanitarian matters on board - the States should not bear the cost of providing health services and so on. It is rather a mixed bag. Although the Opposition does not intend to oppose this bill by voting against it, it has considerable reservations about it. The legislation is not properly thought out; it is probably premature in terms of getting the best possible result, taking into account all the stakeholders in the issue. For that reason the Opposition will give it only tacit support.

Mr KINROSS (Gordon) [7.56 p.m.]: The honourable member for Hawkesbury said that the legislation is premature. I should like the Minister to paint some of the history of this bill. Apparently in July 1992 the Standing Committee of Attorneys-General agreed to national legislation for the international transfer of prisoners. Earlier this year the Federal Government passed legislation flowing from the February 1997 advisory report on the International Transfer of Prisoners Bill of the House of Representatives Standing Committee on Legal and Constitutional Affairs chaired by Kevin Andrews, MP. Which States, other than the Northern Territory, have already passed this legislation? Is there a timetable for the commencement of the legislation after it has been passed by the respective States?

As the honourable member for Hawkesbury said, the Opposition still does not know what costs will be involved. The potential cost of the scheme could probably be quantified by analysing, at least for New South Wales purposes, the number of prisoners subject to transfer to other countries and the number of prisoners overseas seeking to return to Australia. Clearly, the merits and acceptability of legislation should not be determined merely on the basis of cost. However, in these days when excessive demands are made of

governments from all quarters and across all portfolios, cost is certainly a relevant factor. I posit that the Australian community would probably say to hell with those who commit offences overseas; having committed the crime, they should do the time.

In foreign jurisdictions sentences are commensurate with the seriousness of the offences. A sentence of 45 years imprisonment in a foreign gaol may effectively be a death sentence, given the conditions in some overseas prisons. We should at least examine the compassionate and humanitarian grounds on which prisoners depend for transfer. Clearly, it is relevant to examine the merits of this bill other than in regard to costs. One need only remember a film called *Midnight Express* to be aware of the appalling conditions under which prisoners are detained overseas. Many films and documentaries have since been made which show Australians detained in overseas prisons, some of whom have been hanged. But we are dealing here with offences for which capital punishment does not apply and with the condition that the prisoner and the respective governments must consent to the transfer. The significance of this consensual element as it relates to the prisoner cannot be overstated.

When comparing conditions in Australia to those in most other countries it is fair to say that our sentencing patterns are far lighter than most, certainly with regard to drugs and drug trafficking. Sentences handed down in the Asia-Pacific area, and perhaps to some extent in the United States, are far heavier than they are in Australia. Some overseas prisoners may wish to return to this country. Similarly, people from overseas who have committed offences and are imprisoned here may be reluctant to return home.

I ask the Minister to provide best estimates of the number of overseas prisoners in New South Wales, and perhaps Australia, who would be likely to return to their countries, and the number of Australian prisoners overseas who might be permitted to return to Australia and New South Wales. A different situation applies with regard to tribunal prisoners. As I understand it, tribunal prisoners are so classified because of their commission of an offence heard by the War Crimes Tribunal. I would appreciate it if the Minister would clarify that issue also. I understand that the consent of tribunal prisoners is not required, perhaps because of the serious nature of the offence.

Cost is probably as controversial an issue as illegal immigration, because until a court has made a determination, the status of immigrants who arrive on Australian shores cannot be determined. A court must decide whether they are entitled to be in the country on humanitarian grounds because, say, of persecution or because their country is at risk. This bill relates to people who have committed a crime and are in gaol. The taxpayers are concerned about

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the extent to which they would be liable for the cost of transferring prisoners.

One needs to multiply the number of overseas offenders to be returned to Australia by the extra number of years they will receive for their sentence. In other words, because of the mismatched sentencing patterns in foreign countries, one cannot simply say that if 900 Australian prisoners overseas return to Australia, and 100 overseas prisoners leave Australia, the net result is 800 prisoner years to be served here. Overseas prisoners who return to Australia would undoubtedly stay longer because of the nature of the offence and the more serious penalty for their crimes, in particular in Asian countries. The Minister might clarify the rough demographics of the prison population in New South Wales according to country classification. I believe that there are far more prisoners from the Asia-Pacific region than from Germany, for instance. The Opposition has a number of concerns about the bill but it will not call for a division. However, I ask the Minister to address the matters that other members and I have raised.

Mr DEBUS (Blue Mountains - Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Minister for the Arts) [8.06 p.m.], in reply: I should begin by pointing out that all States and Territories, excluding the Northern Territory, have agreed that a bill of this nature should be introduced. So the bill is supported by every conservative government in the country. New South Wales is by no means the first government to introduce such a bill. It is supported by the friend and mentor of the honourable member for Lane Cove, John Howard.

The last three speakers had difficulty marshalling compelling arguments against supporting the bill. That may demonstrate the real reason behind the Opposition's stance on the legislation. It is clearly another party room coup by the honourable member for Lane Cove. She is intent, as she was with the motion in the upper House against Mrs Arena, on embarrassing the leadership of the Liberal Party - Messrs Collins and Hannaford - which I believe is the reason for her objections to the bill rather than the bill itself. There is no other explanation for her incompetent and utterly unconvincing arguments.

Recent figures indicate that about 900 non-Australian citizens are in New South Wales prisons and about 180 Australian citizens are in foreign prisons. It is estimated that about 100 of those are from New South Wales - a ratio of about 9:1. Several members opposite have made the racial assumption that the majority of criminals from other countries who are incarcerated in our gaols are Asian - that they come from Thailand and the Philippines. Approximately 35 per cent of non-Australian citizens in New South Wales gaols come from the United Kingdom or New Zealand, and 14 per cent come from Europe or North America. That means that in New South Wales gaols there are more than 400 inmates who would probably be perfectly happy to go back home for the remainder of their sentences. If that were the case we would come out ahead in the cost equation improperly mentioned by the honourable member for Lane Cove.

In New South Wales gaols there is a grand total of 14 Thai nationals. Frankly, if we cannot send them home to serve out their sentences, one could not say that would place an unbearable strain on the State's budget. If all Australian prisoners in foreign countries were to return to New South Wales and only one in nine foreign prisoners in New South Wales gaols were to return to their countries of origin, New South Wales would break even. Let us assume that there is a slight net inflow of inmates: even then the numbers are bound to be very small and spread over many years, treaties will need to be negotiated with individual countries, applications will have to be processed by the Australian foreign affairs staff, and so on.

It is entirely unrealistic to suggest that the effects of transfers would have any significant economic or organisational effects on our system; the effects will be humanitarian. In addition, for those who are concerned about costs, under the Commonwealth legislation the relevant State or Territory may be reimbursed for transfer costs and expenses. The terms of the transfer agreement may include recovery from the prisoner of the costs and expenses reasonably incurred in transferring the prisoner: for example, the air ticket, escort costs, and any medical costs. In such cases any reimbursement would be paid to the correctional service in the relevant State.

Members of the Opposition need have no fear that this conservative legislation will send us broke. A number of Opposition speakers asked about the length of sentence that transferred prisoners would serve. The Commonwealth Government has indicated that it favours the continued enforcement method, described in the bill, by which a prisoner transferred to Australia will serve the same sentence as that imposed in the sentencing country. Any adaptation of the sentence will only be to the extent necessary to ensure that the sentence is consistent with Australian law. In most cases it is unlikely that

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the sentence will be greatly reduced, and the prisoner will probably have to serve a longer sentence than he or she would have served if sentenced in Australia.

This will sufficiently redeem the sense of revenge that many members opposite have expressed towards drug dealers presently incarcerated in cockroach-infested prisons in Bangkok. I point out that the transfers are to be considered by each Minister on a case-by-case basis in the same way that interstate transfers are assessed at present. The existing provisions for interstate transfers have not produced an influx of murderous Queenslanders or fraudulent Tasmanians to burden the budget of New South Wales. In my experience, Ministers from each State and from all sides of politics take an extremely cautious approach to each transfer. There is absolutely no reason to assume that any incumbent Attorney-General will not be careful and sensible in any sentence conversion.

The honourable member for Dubbo was of the view that these criminals deserve to remain in places such as Thailand. The honourable member for Burrinjuck - who otherwise spoke sensibly and consistently, if conservatively - was of the opposite view: he thought that people from, say, Thailand who committed a crime in

New South Wales should be sent back to Thailand. The honourable members for the electorates of Dubbo and Burrinjuck need to work on a resolution of that contradiction. But either position ignores the humanitarian issues behind this scheme.

Prisoners who are imprisoned in foreign countries are deprived of the contact and support of relatives and friends. In many cases they suffer language barriers and problems with diet and health care. It is obvious that the transfer of a prisoner to his or her home country is likely to improve his or her prospects of rehabilitation and reintegration into the community. It will also reduce the hardship suffered by the families of prisoners imprisoned in foreign countries. The honourable member for The Entrance, in a splendid contribution to this debate, spoke eloquently of a case in his electorate which eminently demonstrated the importance of the humanitarian aspect of this bill.

I draw attention to questions raised by a number of members opposite about the rights to parole or early release, and other conditions that will affect transferred prisoners as against domestic prisoners. Transferred prisoners will not necessarily have the same rights to those conditions on their sentences. The terms of a prisoner's sentence on transfer are to be finalised prior to the transfer by the Commonwealth Attorney-General. No appeal lies from the decision of the Commonwealth Attorney-General concerning the enforcement of the foreign sentence in Australia. Once the sentence is fixed, there can be no entitlement to any form of parole or other early release.

This legislation is consequential upon a Commonwealth Act and I suggest that if the honourable member for Lane Cove feels strongly that this provision will destroy the moral fibre of Australia she should talk to the Prime Minister, who appears to have supported the legislation. She should also talk to Justice Nagle, who lectured in this building last night and reminded us all of the fundamental conditions that apply in every civilised prison system. Not every gaol system in the world is civilised, but ours is. It is quite extraordinary that some members of the Opposition should be prepared to sacrifice those ideals on the altar of the honourable member for Lane Cove's parliamentary ambition in the short term.

Motion agreed to.

Bill read a second time and passed through remaining stages.

HEALTH SERVICES BILL

Second Reading

Debate resumed from an earlier hour.

Dr REFSHAUGE (Marrickville - Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [8.18 p.m.], in reply: To recap, it is interesting that the Opposition is moving away from its former Premier's position on the Public Sector Management Act and has decided that that Act should not apply to health employees. The Government is prepared to give credit where it is due. The Government supports former Premier Greiner's position on the Public Service Management Act; there has been no change to that. The Government is prepared to support a good piece of public reform. The Opposition raised a number of issues and it was difficult to determine whether that was because the people who raised them were saying that they had not been consulted. In any event, the honourable member for North Shore raised those issues, whether she supported them or not. All groups mentioned by the Opposition were consulted and received feedback either personally or by letter. Health Services Association members received feedback at a number of presentations arranged by the association.

The Government's responses to all issues were made clear to those directly involved, so I can only conclude that the Opposition is putting these matters forward as its policy. Obviously the Opposition's policy is

for the Government of the day not to direct area health services on the provision of services. That is not surprising because the Opposition wants to privatise the health care system. Any privatisation or contracting out of health services should be decided by this Parliament.

Mrs Skinner: On a point of order. The Minister is touching upon issues that were not raised during the debate. He is misleading the House by making representations about the position I took previously. I ask that you direct him back to the debate.

Mr ACTING-SPEAKER (Mr Gaudry): Order! No point of order is involved.

Dr REFSHAUGE: It is obvious that Opposition members have been caught out. They said the Government did not consult; now they find that we did, but they must stand by what they said. The honourable member for North Shore said quite clearly that the Minister should not be involved, yet the honourable member for Georges River said the Minister must be involved in providing extra money for her local hospital. The Opposition has to get it right. Which side are we to believe? Are we to believe the uglies or the group? What is the Liberal Party talking about?

Reference was made to voluntary redundancies to nurses at the Children's Hospital. The Opposition spokesperson said there should be no central control and no direction from the Minister. I disagree. What the Opposition did was wrong, not only because it was not the right direction, but because it was outside the guidelines agreed to by the unions and the health services. The Government has found a better way through central involvement. If the honourable member for North Shore wants to abrogate her responsibility, there would be chaos if ever she became health Minister. There would be chaos with her as Minister anyway, even if there were central control! The Government must be involved and policy must be translated into action. That is what the Parliament is about.

The Opposition really does not understand the health-care system and certainly would not want to be involved in it. The Opposition has raised nothing but furbies. The Opposition referred to the Health Administration Corporation's role as the employer of those working in the public health system. The Coalition legislated for the role of the Health Administration Corporation, but now it says, "We should not have that. We should allow every area health service to have its own rates of pay and its own employment conditions." Effectively, this means that rural New South Wales will have to compete with metropolitan New South Wales, and that is not fair.

It would be interesting to learn whether any National Party member agrees with that policy. Do they agree that rural health services should compete for staff with metropolitan areas by having different rates of pay? Does the Opposition want to take money from patient services so that its members can frolic in their local areas, playing games with their local personalities and having different enterprise bargains? The Federal Government has introduced its idea of industrial relations, and the result was a massive blue at Rio Tinto that will continue forever. It is clear that if the New South Wales Opposition ever came to government it would want exactly the same and would dud this State. No country members would support such a policy.

The staff transfer and redundancy measures in this bill are exactly the same as those in the Public Sector Management Act. The unions were consulted. I spoke at length in my second reading speech about assurances and no employees being denied access to a redundancy payment if a proposed transfer required them to relocate their home. I did so because during negotiations, discussions and consultation the work force wanted to make sure that that measure would not be tampered with. That is why I made the importance of that issue clear. I know the Opposition does not understand the way legislation works and it does not understand that when interpreting legislation the courts take into account the Minister's second reading speech. Obviously we had to ensure that we are bound by the agreement and do not disrupt people's lives, but on the other hand we had to ensure that voluntary redundancies are not given indiscriminately.

It was fascinating to hear that the Opposition has decided that performance agreements of a senior bureaucrats should have retrospectivity to guarantee how somebody else performs. That is not a performance

agreement at all! A performance agreement ensures that senior bureaucrats do the work they are supposed to do. They are paid by the taxpayers and the taxpayers require them to do the work that the Government, as their elected representatives, want them to do. That is all we ask.

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The Opposition says it will define a different contract. It will not have performance agreements; it will have contracts.

We know what happens with contracts. The Opposition will get rid of any government involvement in health care, say it is somebody else's responsibility and walk away from the responsibility. The Opposition's issues are rubbish. The Government has consulted and the only reason Opposition members have raised these issues is because they are their policies. The main purpose of performance agreements is to focus the New South Wales health system on meeting objectives with an integrated and systematic approach. The health system must be responsible to government policy and, through the Government and the Parliament, to the taxpayers, who pay for the health care system.

I know the Opposition wants to move away from that because it has no interest in accountability. This Government does and it will remain accountable. That is what defines us as an accountable Government. The issues raised by the Opposition have been highlighted by a division in its ranks and its lack of credibility in understanding those issues, which is an offensive betrayal of its history. I should have thought a party standing for re-election would at least recognise its history and the good bits about it, as we have done. I shall speak on the amendment when it is moved in Committee, but it is clear that the Opposition has no policy. When the Government tears it to pieces they say, "Oh, no, that is not our policy." Its ranks are divided and that division is a running sore that will bring them undone once more. This is important legislation, and I commend it to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clause 10

Mrs SKINNER (North Shore) [8.29 p.m.]: I move:

Page 6, clause 10. Insert at the end of line 29:

, and

(iii) to develop strategies to facilitate community involvement in the planning of those services and to report on the implementation of those strategies in annual reports and to the Minister.

This amendment is moved at the suggestion of the New South Wales Council of Social Service. It is interesting that the Minister claims, as he did in reply to the second reading debate, that broad consultation has been undertaken, yet a body such as the Council of Social Service has to go beyond the Government to seek to have this important provision built into the bill. Acceptance of this amendment would not be onerous for the Government. As stated, it is a strategy to facilitate community involvement. The bill as drafted uses terms such as "support, encourage and facilitate the organisation", but it does not refer to facilitating the involvement. As the Council of Social Security is so adamant that this should be a requirement, I am surprised that the Minister rejected the proposition.

I understand, of course, that that may not be the Minister's doing. I have been led to believe that the Minister accepted this recommendation but was rolled not only by Cabinet but by the Government caucus. There is great division about the Minister for Health within the Government caucus and Cabinet, and he is not

the most popular Minister of all time. I am not surprised that there are times when the Government caucus simply rejects propositions put forward by the Minister. This amendment is very important for consultation and the communication process.

To set the record straight, I return to a reference I made earlier about an exchange of letters between Dr Mackey and the Minister. Although the Minister claimed that he did reply to Dr Mackey, that is not true. I have a copy of the letter received by Dr Mackey, and it is a letter from the director-general. Dr Mackey was telling the truth, as I was when I said on his behalf that the Minister had not replied to him. For the Minister to tell such obvious lies to this place is a disgraceful abuse of the system. The Minister had the letter in his hand at the time he made that suggestion. The only way that the community will have a real say and involvement in what happens in the health regions is through acceptance of this amendment.

Dr REFSHAUGE (Marrickville - Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [8.32 p.m.]: It is fascinating that Opposition members want community consultation yet the previous Government never provided that. Where was community consultation when the coalition Government closed Yeoval Hospital? That community consultation was made up of a massive outpouring of community unrest. I had to address the community. The coalition Minister for Health ran away from that issue; there was no consultation. Where was the community consultation when the

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coalition Government closed the Wallsend District Hospital? The closure of that hospital was an albatross around the neck of the former Government. There was absolutely no community consultation over that closure. Opposition members are full of hypocrisy.

Where were coalition members when the former Government closed the Kiama District Hospital? The community consultation came from Nick Greiner, as Leader of the Opposition, who said, "We will never close Kiama hospital", but when the coalition took office his henchman, the present Leader of the Opposition, closed that hospital - with no community consultation. The hospital closures resulted in massive community changes but coalition members never consulted. There is no doubt that the Opposition's actions are hypocritical. It is not surprising that Opposition members do not even know the name of the organisation that suggests this proposal. This Government recognises the importance of community consultation and involvement, and that is reflected in the bill. It is obvious that the shadow minister for health has not read the bill.

It is clear from clauses 10(f), 10(h)(i) and 10(h)(ii) that this bill re-enacts existing provisions of the area health service legislation on community consultation and involvement in the planning and development of services by area health services. Those functions have been expanded to acknowledge that other organisations, in addition to the Department of Health, may have a contribution to make in planning at the local level. The bill also recognises the responsibility of area health services to consult and co-operate with their local health professionals, which is an important provision but was not included at the time of the former Government. The Government is actively exploring the strategies that might be used to facilitate and expand community involvement in health.

To this end, the department has already commissioned a health consumers project - an initiative of this Government, not of the coalition Government - which is managed by the New South Wales Council of Social Service. The council conducted a structured consultation with consumers and community organisations on the issue. The report is now to hand and will provide a valuable resource for the department and area health services to make sure that appropriate strategies are developed to expand community consultation and involvement. The model performance agreements for area health services that have been so criticised by the Opposition also include obligations upon area health services for community participation.

Under this Government the model provision has been included in area health service performance agreements for the first time. The result will be increased accountability in the health system in the area of community consultation, and the annual report on and evaluation of that accountability in accordance with clause 126. The matter is covered completely in the bill. There is no doubt that the inclusion of the model provision in performance agreements demonstrates clearly the Government's commitment to community

consultation. The previous Government had no such commitment. The previous Government did not consult on the hospitals at Yeoval, Wallsend or Kiama or even on the hospital at Chatswood. The hypocrisy of Opposition members is obvious. The Government rejects the amendment.

Amendment agreed to.

The CHAIRMAN: Order! I shall recommit the question. The question is, That the amendment be agreed to.

Mr Kinross: On a point of order. You clearly declared the result and no division was called until about three or four seconds after that. I ask that you rule in favour of the amendment.

The CHAIRMAN: I have already made a ruling, and the ruling is that the question be recommitted. I have recommitted the question and I put it again for the third time. The question is, That the amendment be agreed to.

The Committee divided.

Ayes, 44

Mr Armstrong	Mr O'Doherty
Mr Beck	Mr O'Farrell
Mr Blackmore	Mr D. L. Page
Mr Brogden	Mr Peacocke
Mr Chappell	Mr Phillips
Mrs Chikarovski	Mr Richardson
Mr Cochran	Mr Rixon
Mr Cruickshank	Mr Rozzoli
Mr Debnam	Mr Schipp
Mr Downy	Mr Schultz
Mr Ellis	Ms Seaton
Ms Ficarra	Mrs Skinner
Mr Fraser	Mr Small
Mr Glachan	Mr Smith
Mr Hartcher	Mr Souris
Mr Hazzard	Mr Tink
Mr Humpherson	Mr J. H. Turner
Dr Kernohan	Mr R. W. Turner
Mr Kinross	Mr Windsor
Mr MacCarthy	
Dr Macdonald	<i>Tellers,</i>
Mr Merton	Mr Jeffery
Ms Moore	Mr Kerr

Noes, 48

Ms Allan	Mr Martin
Mr Amery	Ms Meagher
Mr Anderson	Mr Mills
Ms Andrews	Mr Moss
Mr Aquilina	Mr Murray
Mrs Beamer	Mr Nagle

Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori
Mr Debus	Mr E. T. Page
Mr Face	Dr Refshauge
Mr Gaudry	Mr Rogan
Mrs Grusovin	Mr Rumble
Ms Hall	Mr Scully
Mr Harrison	Mr Shedden
Ms Harrison	Mr Stewart
Mr Hunter	Mr Sullivan
Mr Iemma	Mr Tripodi
Mr Knight	Mr Watkins
Mr Knowles	Mr Whelan
Mr Langton	Mr Woods
Mrs Lo Po'	Mr Yeadon
Mr Lynch	
Mr McBride	<i>Tellers,</i>
Mr McManus	Mr Beckroge
Mr Markham	Mr Thompson

Pair

Mr Slack-Smith Mr Gibson

Question so resolved in the negative.

Amendment negatived.

Clause agreed to.

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

PUBLIC HEALTH AMENDMENT (TOBACCO ADVERTISING) BILL

In Committee

Schedule 1

Dr MACDONALD (Manly) [8.52 p.m.], by leave: I move amendment Nos 1 and 2 standing in my name in globo:

No. 1 Page 7, Schedule 1[10], proposed section 61B(4), lines 23-25.

Omit all words on those lines. Insert instead "or in contravention of subsection (5)".

No. 2 Page 7, Schedule 1[10], proposed section 61B. Insert after line 25:

(5) Tobacco products that are for sale in any premises must be stored under the counter or otherwise out of sight.

These amendments refer to point-of-sale advertising and the point-of-sale regulation of tobacco products. I draw to the attention of the House the review of the Tobacco Advertising Prohibition Act 1991 which was tabled on 12 December 1995. The first evidence of criticism of the Act appears in the executive summary on page 6 of the report, which states:

It is apparent however that there continues to be extensive advertising of a style not previously seen in retail outlets which contradicts the spirit and purpose of the Act but may be permitted by the legislation as it is currently drafted. In relation to these types of issues recommendations have been made to improve the effect of the enforcement of the legislation.

Much of the improvement in the legislation flows from that summary because that was the first acknowledgment that there were problems with the Act. In my second contribution to the second reading debate I highlighted the problems that have emerged as the opportunities for the tobacco industry to advertise its product have been narrowed. The industry is now attempting to circumvent the Act and concentrate on everything from value-added promotions to point-of-sale advertising. It is to the credit of the Government that this bill has knocked out value-added promotions. But problems still exist about point-of-sale advertising. I am not that confident that these matters are addressed effectively by regulation. These amendments seek to provide that all tobacco products for sale in any premises must be stored under the counter or otherwise out of sight.

Newsagencies, supermarkets, corner stores, shopping centres and petrol stations are outlets used to promote smoking as part of our daily lives. In my second contribution to the second reading debate I mentioned that point-of-sale promotions in those outlets is now the fastest growing area of advertising expenditure in the United States of America. Arcades, malls and shopping centres throughout the community have been transformed into the last bastions of opportunity for the tobacco industry to win the hearts and minds of people, and ultimately make them addicts to this dreaded product. By using such points of sale tobacco companies are effectively indoctrinating the young into a lifetime of nicotine use.

A Senate inquiry report was provided to the Labor Government during its last years in office.

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The inquiry was chaired by Opposition Senator, the Hon. John Herron, who is now the Minister for Aboriginal and Torres Strait Islander Affairs. I will refer to that report during this Committee stage debate. The details in the report about point-of-sale advertising ring alarm bells, and reports such as that have compelled me to move these amendments. Tobacco is a deadly product that has to be regulated, restricted and stored under the counter or otherwise out of sight.

The Senate report, which I will call the Herron report, compliments New South Wales on the Tobacco Advertising Prohibition Act. It says that this State has the most stringent restrictions. Indeed, the report acknowledges the arguments put to that committee about the need to ban all forms of tobacco advertising as an essential component of a comprehensive smoking control program. The report also acknowledges submissions from major medical and consumer groups - the World Health Organisation, the World Health Assembly, the International Union Against Cancer and the International Organisation of Consumers Unions. The report states that evidence of one study provided to the committee concluded that point-of-sale advertising is potentially directed at young new smokers. There is no doubt that young people are the targeted audience. On that basis I would argue that point-of-sale advertising should be restricted much further than is provided for in the bill.

A submission to the Senate inquiry noted that the elimination of tobacco promotion has been associated with a decline in tobacco consumption, especially amongst young people in New Zealand, Norway and Canada. The study analysed the relationship between tobacco advertising and tobacco consumption in 33 countries and found that when the countries were grouped according to the degree of government restriction of tobacco promotion, the greater the degree of restriction the greater the average decline of tobacco consumption by young people.

The study found that those countries with total advertising bans during the period from 1970 to 1986 experienced an average decline in the proportion of young people who smoke of 2.7 per cent a year as against an average decline of 1.6 per cent a year in countries that permitted tobacco advertising in most of the media. The jury is no longer out on the benefits of reducing tobacco promotion. Indeed, I would argue that we need to go to that point.

I now refer to an issue that is not outside the leave of the bill, but is not covered by the bill either - I acknowledge that it was not supported ultimately by the Senate inquiry - and that is, generic packaging. I hope

that in the life of this Parliament we can move to deal effectively with this issue. There is absolutely no doubt in my mind and in the minds of many experts that we must deglamourise smoking, just as we must deglamourise the taking of all other drugs. One way to do that is to get away from the packaging variations aimed at getting loyalty and allegiance, and attracting the customer to smoke.

Ultimately, we will need to consider the outlets. My amendments propose that we get tobacco products out of sight. There are hundreds of thousands of outlets for this incredibly dangerous product. The number of outlets is expanding, particularly in supermarkets. We need to consider who should be licensed. We need also to consider licence fees. We are faced with a difficult social conundrum. I acknowledge that banning or limiting tobacco products from corner stores would have significant social impacts. The person dropping into the corner store, a small family business, for a packet of cigarettes often does the casual purchasing which may well make the difference between survival or not for these businesses.

It has been argued that one way to deal with this problem is to limit the outlet for tobacco to specialised premises, that is, the old tobacconists, and prohibit it in other areas. I do not know whether I have the answers. It is something that will have to exercise the minds of all honourable members, and the Minister and his staff, in particular, if we are to make further progress beyond this bill. The amendments should be supported. They are consistent with the way we are restricting promotion in advertising. I seek the support of the Committee on the amendments.

Dr REFSHAUGE (Marrickville - Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [9.02 p.m.]: The Government does not accept the amendments, but understands the reasons behind them. I recognise that one reason New South Wales was considered to be a leader was because of the support by the honourable member for Manly for the original Tobacco Advertising Prohibition Bill when this State had a hung Parliament. His support ensured that the legislation was passed. I certainly recognise his commitment at that stage, before then and since. The honourable member has always provided ideas about how we can do it better.

The issue as to whether people selling tobacco should be allowed to store their product in public
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view is, in a way, separate from the advertising issues raised by the honourable member for Manly. I have made it absolutely clear to the tobacco manufacturers that there is no point in their employing advertising consultants because no advertising is allowed. I made it clear that their attempts, through what is called jigsaw packaging, is totally outrageous and an attempt to circumvent the bill, and that their ability to do that will be removed by the legislation. If tobacco manufacturers behaved more responsibly we would not have had to introduce this legislation. They have always pushed the limits. That is why the Government has made it clear that no oversized packaging, no jigsaws, no mirrors, no flashing lights, no turntables, no displays in windows, streamers, balloons or any other promotional material will be allowed.

The Government wants to make it clear that a packet of cigarettes is all that is being purchased, and nothing else. No subliminal messages will be sent out. It has been suggested in other States that cigarettes should be totally under the counter. Those States have realised the difficulty of doing that and to some degree they have backed away from that suggestion. My discussions with the Tasmanians indicate that they are moving away, although in the same direction as us; they want to ban point-of-sale advertising.

One issue could raise contention. In debate on the original Tobacco Act it was strongly argued that the price of cigarettes could be displayed. In drawing up the regulations I will insist that the display is of reasonable size, and that it is not used as a form of advertising. I support the intentions of the honourable member. I recognise that he is constantly looking for new and better ways to reduce the chances of people taking up smoking, and encouraging smokers to stop. However, I do not see that this amendment is appropriate at this stage.

Amendments negatived.

Dr MACDONALD (Manly) [9.06 p.m.]: I move amendment 3 circulated in my name:

No. 3 Page 11, schedule 1[10], proposed section 61E(4), lines 7-9.

Omit all words on those lines.

I indicate that amendment 5 is consequential to this amendment; therefore, if amendment 3 is not agreed to I shall not move amendment 5. This amendment relates to the vexed question of sports sponsorship. The background to this amendment is interesting. In June 1994 when the coalition was in office the then Minister for Health called upon the State and Federal governments to unite to oppose all forms of tobacco sponsorship. He backed the suggestion of a ban on tobacco sponsorship of sports events by 2000. In the same announcement he suggested the establishment of a health promotion foundation. I shall concentrate on that occasion because it caused a rift between the then health minister and the then Minister for Sport, Mr Downy. The issue involved tobacco sponsorship of the 1995 Grand Prix at Eastern Creek. It is to the credit of the then health minister that he saw benefit in phasing out all sports sponsorship by 2000, but he was weighed down by the then sports minister. This issue was examined by the Herron Senate Committee in 1995. Page 37 of the report of that committee states:

Studies have shown that sponsorship by tobacco manufacturers of televised sport has the same effect on children as more direct cigarette advertising. Children were found to be better able to identify cigarette brands after watching tobacco-sponsored sporting events than they were before . . . TV sport sponsorship by tobacco manufacturers acts as cigarette advertising to children and therefore circumvents the law banning cigarette advertisements on TV.

A United Kingdom study found that over half of secondary school children in a sample were able to specify a brand name and a sponsored sport or game such as Marlboro and motor racing. The study argued that many secondary and older primary schoolchildren are aware of the connection between cigarette brand names and sports. Moreover, as the brands and the sports most frequently mentioned have been often shown on television, this suggests that children learn about these connections by watching televised sporting events. Indeed, the committee further argued that there are viable alternatives to tobacco sponsorship, and argued for the establishment of a national health promotion foundation. The committee concluded that it believed:

. . . on the basis of the evidence received from a wide range of groups and of studies that show sponsorship by tobacco manufacturers acts as cigarette advertising to children, there should be no special exemption permitting tobacco advertising at sporting and cultural events of international significance. The committee further believes this recommendation should be phased in by the year 2000.

The bill makes some improvements but retains exemptions for international events. The Federal Senate committee of 1995 recommended that the Federal Tobacco Advertising Prohibition Act 1992 be amended to remove provision for the exemption of publication of tobacco advertisements in association with specified sporting and cultural events of international significance and that this be phased in by the year 2000. The Federal Government's response of September 1997 was disappointing. That response referred back to the
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Senate report and acknowledged the recommendation. It was stated:

Because States and Territories may rely heavily on the financial benefits of hosting high profile sporting and cultural events, the Commonwealth Minister for Health and Family Services -

Michael Wooldridge, who I believe is a doctor -

will retain the power to exempt such events from a ban on tobacco advertising. The Federal Government will, however, more rigorously assess future proposals from sporting organisations which apply for exemptions from Australia's tobacco advertising laws.

The Minister for Health and Family Services will be like Sisyphus pushing the boulder up the hill. I do not know why the Federal Government is holding out. The report of Margaret Winstanley, Stephen Woodward and Noni Walker entitled "Tobacco in Australia: Facts and the Issues 1995" refers in the following way to the strong

case for no sports sponsorship:

In 1972, for the first time, a mandatory health warning was required on cigarette packages and direct advertising in the broadcast media was phased out between 1973 and 1976. These restrictions were anticipated by the tobacco industry, and it developed strategies to circumvent the effect of such proposals.

It reflects on the secret deals done by Rothmans, which sought to plant people in various areas to give out conflicting evidence. The report also states:

The continued broadcast exposure from tobacco companies gained through sport and cultural sponsorship, and the relative ineffectiveness of the early health warning legislation, made these initial controls little more than an inconvenience to the industry, although they doubtless signalled that the Australian marketplace could no longer be taken for granted.

The tobacco industry has faced a rolling back of opportunities, but two areas are left. One is the point of sale, which I have addressed, and the other is sports sponsorship. We must get rid of that opportunity. The evidence against sports sponsorship by tobacco companies is compelling. It has an impact on children who take up smoking. This State has shown leadership by taking lead out of petrol. Why should it not go it alone and be prepared to recognise the impact of sports sponsorship by the tobacco industry? I seek the Minister's support for this amendment. The amendment was recommended two years ago in the comprehensive Senate report, and it is high time that it was adopted.

Dr REFSHAUGE (Marrickville - Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [9.15 p.m.]: The Government has taken a responsible approach to the use of exemption powers. Since commencement of the Act in 1991 sports sponsorship has been prohibited unless an exemption has been granted by the Minister for Health. However, contracts entered into prior to the commencement of the Act were permitted to run until September 1995. Under the current legislation the grounds for exemption for tobacco sponsorship of a sporting or cultural event stipulate that the event must be of national or international significance. Exemptions may be granted in the case of hardship to a person other than the manufacturer or distributor of tobacco products. The Government has demonstrated its commitment to reducing the number of exemptions granted under the Act. From 1992 to 1994, 33 exemptions were granted. In 1997, three exemptions were granted.

From memory, one of those exemptions was granted for entry in a motor exhibition of an original racing car that had an advertisement on it when it won a race. It would not have been appropriate to deface the car, and to some degree the legislation provides that articles produced before the Act was enforced will still be exempt. A national approach would be necessary to achieve what the honourable member for Manly wants, and I have said at health Ministers' conferences that all States should be moving in that direction. The Federal Government would have to come to the party. A number of issues relating to potential exemptions have been raised informally at health Ministers' conferences, and all States have taken the position that they will not grant those exemptions. We will not have one State played off against another. For the proposal of the honourable member for Manly to be effective the Federal Government would need to come to the party. I do not believe that any of the States would object to moving in that direction.

Amendment negatived.

Dr MACDONALD (Manly) [9.16 p.m.]: I move amendment 4 standing in my name:

No. 4 Page 11, Schedule 1[10], proposed section 61F(1), lines 28-34.

Omit all words on those lines. Insert instead "of an offence".

I state clearly that both sides of the House should support this amendment, which essentially seeks to ban the use of cigarette vending machines. The evidence is overwhelming that it is impossible to control vending machines, which are easily accessed by anyone. I wish to relate evidence derived from the Australian Council

on Smoking and Health - ACOSH - an organisation based in Subiaco in
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Western Australia and at the forefront of the pro-health and antismoking lobbies in this country. ACOSH carried out a survey on cigarette vending machines and reported in May this year. Nine hotels in the centre of the city that had vending machines were visited. A number of adults and three children, the children of the adults, undertook the survey.

The children - the mean age of whom was 11 years and nine months - were 100 per cent successful in getting cigarettes from the vending machines. On no occasion were the children stopped, on no occasion were they asked for proof of age, and on no occasion were cigarettes confiscated by a member of the public or staff. On only one occasion did a patron say to a child, "You are too young to be buying those." However, the child was still able to proceed with the purchase. The purchases were made within the licensed areas of the establishments. Those results show that vending machines cannot remain and be accessible to children.

It is interesting that children have a 100 per cent success rate when purchasing cigarettes from vending machines compared with a success rate of only 20 per cent when attempting to purchase over the counter. That rate is a lot better in Western Australia than it is in this State. The Minister and I previously debated this across the Chamber when surveys were carried out in both Marrickville and Manly as to the percentage of children who could buy cigarettes over the counter. Sadly that was up around 60 or 70 per cent. That rate is down to 20 per cent in Western Australia because that State has a strong enforcement policy.

In summary, the location of vending machines in licensed premises provides no barrier to children accessing cigarettes. On that basis I argue that there is a very strong case for banning vending machines. I call upon the Opposition to support my amendment and I hope that that support will be transmitted to the upper House. I will brief the crossbenchers in the upper House on this amendment and seek their support. I will do that because the past few weeks have seen the Opposition in this House jump up and down about getting tough on drugs. With my amendment we have an opportunity to get tough on drugs.

Mrs Skinner: Will you get tough on marijuana?

Dr MACDONALD: Tobacco is an incredibly dangerous product. We are talking about trying to regulate and restrict its availability to children. This is an example of the Government having an opportunity to regulate the sale of tobacco. That is one of the cases put very strongly by those who seek to change the prohibition laws. But I get sick and tired of the Opposition distinguishing between the different products. Tobacco is an extremely dangerous product and I call on the Opposition to stand up and back my amendment which will ban vending machines.

We do not have vending machines that sell alcohol or pesticides, so why do we have vending machines which sell another lethal product? There is no way that a vending machine can check a proof-of-age document. In the United States of America, as part of the recent billion dollar settlements, the tobacco industry agreed to ban sales through vending machines, because of their impact on youth smoking. In view of occupational health legislation, why are cigarettes allowed to be distributed through staff amenities in workplaces or registered clubs where claims for smoking-caused injuries are increasing. Having vending machines in pubs or clubs is counterproductive to the Government's plan to phase out smoking in restaurants, pubs and clubs in the next five years.

My amendment is logical, sensible and consistent with the surveys carried out in Western Australia and with what is happening in the United States of America. My amendment is consistent with our attempt in this House to try to protect children from taking up smoking. In Australia each year 70,000 children start to smoke; they are the recruits. It has been shown that the vast majority of people who start smoking do so in their teens. Sadly the youth smoking rates are rising - after 10 years of decline - according to the latest national and State surveys.

A recent survey of 24,000 secondary school students showed that more 12- to 15-year olds were smoking

weekly, with slight increases for 16- and 17-year olds. Nearly 262,000 children aged from 12 to 17 smoked more than 6.6 million cigarettes in the week before that survey was taken. We have a major epidemic of children who are smoking. I ask this House to support my logical amendment to take the bill one step further and ban vending machines altogether. It has been proven that vending machines cannot be controlled or regulated and cannot deny access to children. I seek the support of the House for this amendment.

Mrs SKINNER (North Shore) [9.24 p.m.]: Given the request by the honourable member for Manly for the coalition to support him, it is appropriate that I make some comments. I have a great deal of sympathy with the sentiment behind his

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amendment. I believe that the honourable member for Manly is heading in the right direction and that his proposals will be adopted eventually, but I do not believe that that time is now. On behalf of the coalition I cannot make a commitment, because I received these amendments only today. One has to think through all of the impacts of this issue. If an occasion arises at another time to look at amendments to this Act I believe the issues he raised can be addressed, particularly in relation to the banning of smoking in clubs, pubs and restaurants. In the main they are the kinds of places where vending machines are located.

I and the members of the coalition sympathise with the sentiments expressed by the honourable member for Manly in relation to attempts to reduce the number of young people who smoke and his concerns about the increasing number of young people who smoke. The eventual removal of vending machines is one of the ways to go. I believe also that the other amendments moved by the honourable member for Manly will, one day, be enacted. However, I believe that he is a bit ahead of his time. He may sigh with sadness, but that is the reality, particularly when his amendments were provided to us only today and, therefore, we have had no opportunity to discuss them.

Dr REFSHAUGE (Marrickville - Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [9.26 p.m.]: The amendment moved by the honourable member for Manly is to totally ban vending machines. The Government is aware of concerns regarding access to vending machines. Numerous submissions were made about the review carried out by the department concerning vending machines, particularly their ease of access by young people. This access appears to be linked to the lack of appropriate supervision of the machines and was taken into consideration when the legislation was developed.

Under current provisions of the Act, occupiers of licensed premises are not restricted as to where they may place a vending machine on their premises. Many complaints have been received whereby minors have gained access to tobacco through unsupervised machines, even when they were placed on licensed premises. This has occurred because the machines can lawfully be placed on licensed premises in an area to which young people have free access; for example, at present machines may be lawfully placed in the foyer of a hotel, bottle shop or licensed restaurant. This bill restricts the placement of vending machines to restricted areas within the meaning of the Liquor Act 1982.

Young people do not have access to these areas, therefore direct access by minors to tobacco will be significantly limited. Specifically the bill will require vending machines to be removed from bottle shops and licensed restaurants, because they do not have restricted areas and minors may occasionally visit these areas. The provisions of the bill will ensure that machines are placed only in an area of a hotel that children may not access. Accordingly, vending machines in the foyer of an international hotel will be prohibited. Further, the provisions of the bill will remove uncertainty for registered clubs and will ensure that registered clubs are treated in exactly the same manner as licensed premises, such as hotels. However, clubs must place a machine in a bar or poker machine area. The bill will not result in a large increase in the number of machines, given that many registered clubs argue that they are lawfully entitled to have machines under the current Act. The amendment simply puts the matter beyond doubt.

The honourable member for Manly mentioned the survey conducted in Western Australia. My understanding is that children who were able to access tobacco from vending machines did so in hotel lobbies; that will now not be possible. They also accessed tobacco in bottle shops, which will now not be possible. They

accessed tobacco in pubs and clubs where the machines were away from the bar area, in corridors not in the restricted and supervised areas. This bill will do what was required by the evidence from the Western Australia survey and from the submissions we have received in review of the Act, but certainly I am happy to review this provision to see if there is a need for further tightening. The Government does not support the amendment.

Dr MACDONALD (Manly) [9.29 p.m.]: I should like to respond to some remarks by the Opposition spokesperson on health and the Minister for Health. I apologise for the honourable member for North Shore only receiving the amendments today. I guess I got caught up in the matters of this place. I ask her to try to determine over the next few days the Opposition's position so that the upper House can deal with the matter. But let us not just pay lip-service to this matter. Why is the time not right? What do we have to wait for - for more children to take up smoking and to die? The impact of smoking has been established.

It will not be productive to tear this survey to pieces. It is a ripper of a survey. Without going into detail, no doubt the behaviour and opportunities exhibited in Western Australia will be the same

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under this bill. The survey detailed the locations and the people present when the children bought the cigarettes from vending machines: the bar under the stair when the crowd and bar staff watched; a doorway in a hotel with staff watching; opposite toilets in a crowded room with patrons eating; a crowded walkway near the toilets, with patrons watching; a crowded pool bar, with patrons watching and staff walking past; a shop assistant watching; and the foyer near the toilets, as referred to by the Minister.

The surveys were conducted in the Subiaco Hotel, the Blue Note Tavern, Rosie O'Grady's, the Brass Monkey, Burswood Resort, et cetera. The vending machines were in and near bars. This legislation would be no more restrictive than the conditions imposed in Western Australia. It is not productive to try to argue that the situation is not the same. If the amendment is not passed through this House or the other House, I challenge the Minister to carry out a "sting". I ask him to undertake a survey of vending machines and in six or nine months report back to the House. I believe he will obtain the same results as Western Australia. If he does not, I shall apologise, admit I was wrong and withdraw, and commend him for being right.

I do not believe that any New South Wales survey will be different from the one in Western Australia. Getting rid of vending machines is the minimum concession the Minister can make. Vending machines are a menace because they are easily accessible. Let us not distort a good survey. I acknowledge that the honourable member for North Shore must discuss the matter with some of her colleagues, but what does she have to wait for now? I hope the bill is not introduced to the upper House until next week and that with its strength of numbers the coalition will defer it so that the honourable member for North Shore and her colleagues can get their heads together with her party giants to work out whether the Opposition supports cigarette vending machines. The jury is no longer out; cigarette vending machines are a menace and must go.

Question - That the amendment be agreed to - put.

Division called for. Standing order 191 applied.

Ayes, 2

Dr Macdonald
Ms Moore

Question so resolved in the negative.

Amendment negatived.

Dr MACDONALD (Manly) [9.36 p.m.]: I do not intend to move amendments 5 and 6 circulated in my name.

Schedule agreed to.

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

FINES AMENDMENT BILL

LAW ENFORCEMENT (CONTROLLED OPERATIONS) BILL

**MARKETING OF PRIMARY PRODUCTS AMENDMENT (WINE GRAPES MARKETING BOARD)
BILL**

Suspension of standing orders agreed to.

**MARKETING OF PRIMARY PRODUCTS AMENDMENT (WINE GRAPES MARKETING BOARD)
BILL**

Bill introduced and read a first time.

Second Reading

Mr AMERY (Mount Druitt - Minister for Agriculture) [9.40 p.m.]: I move:

That this bill be now read a second time.

This bill amends the Marketing of Primary Products Act 1983 to change the marketing of wine grapes in the Murrumbidgee Irrigation Area. Under that Act, the marketing of wine grapes in the city of Griffith and the local government areas of Leeton, Carrathool and Murrumbidgee is controlled by the Wine Grapes Marketing Board, which was established in 1933. The Marketing of Primary Products Act has a history dating back to the 1920s but it has undergone a number of revisions, including a significant updating in 1983. As stated in 1983, the object of the Act is to facilitate the commercial and efficient marketing of agricultural commodities in the best long-term interests of producers.

The Act originated at a time when commodity transport and storage did not enjoy today's technology. The means of information dissemination were also more limited and primary producers in many industries needed a statutory arrangement as a

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basis for promoting their own interests and countervailing the market power of some buyers of their commodities. Compared to the situation of only a decade ago, there are many fewer marketing boards in existence today, but the basic objective of the Act remains valid. What has changed for all industries is the way in which they go about promoting their interests. For some industries, this change has been met by moving away from statutory marketing arrangements. For those industries that have retained statutory arrangements, there is a need for a flexible approach to the use of statutory power.

A marketing board's functions under the Act can include marketing or arranging the marketing of a crop; fixing the price at which a grade, class or description of the commodity may be sold; manufacturing and processing the commodity; and providing or arranging for various services such as research, technical information and marketing intelligence to growers. A board is also required to adequately fund the activities carried out. Since 1976 all wine grapes produced in the area of the Wine Grapes Marketing Board have vested in, and become the property of, the board. As a result, the board has acquired power as the owner of the wine grapes, but only rarely has it actually taken delivery of grapes or had them processed on its behalf.

The board has been flexible in its use of this power in a changing environment. It has seen fit to acknowledge the desires of some winemakers and growers to enter into long-term supply contracts. Grapes subject to such a long-term contract have been exempted from vesting. The board has allowed all growers an

involvement in the process of selling grapes that they produce. It has also facilitated marketing by contributing to the development of a flow of market intelligence within the wine grape industry generally. Nevertheless, the board's vesting power has been supported by many of the growers, who believe that the board, as owner of the wine grapes, is in a better position to carry out its marketing functions.

Recently, a review of the application of the Act to the board was undertaken in order to fulfil the Government's commitments under the competition principles agreement. This review focused on the vesting power of the board and how this power is used. The findings of the review may be summarised in two key points. First, there were significant concerns about a grant of vesting power and the extensive powers this gave the board. The vesting power gave significant power to growers, through the unified approach to marketing which it allowed. However, it was recognised that the vesting power could be used in ways different from the manner in which it had been used by the board. That possibility was seen by winemakers to give rise to market uncertainty.

Second, there was no significant objection on economic grounds to the ways in which the board was using its vesting power and the outcomes it was attempting to achieve. These means and outcomes were the basis of the minority report and of recommendations within the overall review report. The Government accepted the merits of the board's flexible use of the vesting power and decided that the power would be extended until 31 July 2000. It agreed to this extension subject to conditions and the achieving of specific outcomes. These proposed amendments to the Marketing of Primary Products Act simply give effect to these constraints to the vesting power. The board agrees to these controls being imposed upon it.

The Government's implementation of the competition policy review therefore centres on specifying constraints on the use of the vesting power and on designated target outcomes. These constraints and outcomes were publicly announced on 13 May 1997 and are now sought to be achieved in this bill. One of the constraints is that the board must not process wine grapes itself or have them processed on its behalf. One outcome is to ensure that any minimum prices which the board sets for vested grapes will be acceptable to winemakers. That is, the prices are set at a level so as to ensure that all grapes are sold. Another constraint is that the board must not equalise wine grape prices either across growers or across wineries.

The associated target outcome is to allow individual growers to retain the benefits of producing and delivering better quality wine grapes. This is achieved in the bill by allowing growers, in all but exceptional circumstances, to negotiate the sale of their own grapes. The final constraint to which I wish to refer is that the board must allow wine grape growers to freely enter into long-term supply contracts with wineries. Grapes subject to such a contract do not vest in the board. The intended outcome of this constraint is to foster long-term planning by wine grape growers and wineries. The bill makes these constraints binding on all parties. The bill amends the Act to ensure that the board's activities carried out in accordance with the Act are exempted from the Trade Practices Act and competition policy.

To reiterate, there are two key provisions of the bill which implement the Government's competition policy review. First, all growers are made authorised agents of the board for the purpose

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of negotiating the sale of the grapes they produce. Second, any grower may enter into a long-term supply contract with a winery, and grapes sold in this way are automatically exempted from vesting. In order to ensure that the operations of the board comply with the Government's intentions, the bill limits the application of the Act as it would otherwise apply to the board. For example, I have already referred to the fact that the board will not have the usual power to process grapes. Nor will the board be able to fix the price of grapes. It will have power to set minimum prices for grapes but not to otherwise control the price that growers are paid. In this regard, any minimum prices set by the board will principally serve to guide negotiations between growers and winemakers.

The bill endeavours to ensure that the market for wine grapes will operate like a normal commercial market, but within a statutory framework. This framework will allow the board to assist wine grape growers in their negotiations with winemakers and, in limited circumstances, to negotiate with the winemakers on a

grower's behalf. It should ensure that growers receive a price for wine grapes that reflects their market value. This bill will be seen as responsive to the needs of those in the industry. Under the bill, growers will be able to negotiate the sale of their own grapes but will be assisted in this task by the board.

In an increasingly differentiated marketplace, each grower will receive the true market value of his or her grapes, rather than a pooled price. Growers will continue to develop their marketing and management skills without losing the benefit of the supporting role of the board. The bill also makes it clear that the functions of the board exercised in accordance with the Act are authorised for the purposes of the Trade Practices Act 1974 of the Commonwealth and the competition code of New South Wales. Most significantly, the bill implements what has been recommended to the Government by the industry itself. I commend the bill to the House.

Debate adjourned on motion by Mr Beck.

FINES AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr AMERY (Mount Druitt - Minister for Agriculture), on behalf of Mr Whelan [9.48 p.m.]: I move:

That this bill be now read a second time.

This bill provides for amendments to be made to the Fines Act 1996 to allow the registrar of a court to vary the court to which a fine is to be paid; to allow the Roads and Traffic Authority to issue a first driver's licence to a fine defaulter in circumstances where the unpaid fine relates to an offence committed by the fine defaulter as a child; to ensure that the maximum number of hours of community service work that a person under the age of 18 years can be required to perform is 100 hours, and that such a person can perform work under several orders concurrently; apply the provisions of the Fines Act which relate to the payment of fines imposed by a court to the payment of ancillary monetary orders made by the court which are also to be enforced civilly under the Act; exclude persons who are serving terms of imprisonment or detention from the transitional amnesty period that the Act provides for existing fine defaulters; allow the regulations to establish a separate fine enforcement regime, for a transitional period of two years, in relation to fines imposed under the laws of the Commonwealth and in relation to offenders who reside outside New South Wales; and provide additional mechanisms to ensure that all outstanding penalties which remain unpaid at the commencement of the Fines Act are able to be enforced using the provisions of the Fines Act.

The Fines Act 1996 was passed by Parliament in November 1996 and provides a new system for enforcing unpaid court fines and administrative penalties in New South Wales. The main objective of the Act is to ensure that the integrity of the fine as an order of the court, or as an administratively imposed sanction, is maintained by providing an effective sanction against non-compliance. Implicit in this objective is the need to ensure equity of treatment by preventing people from avoiding the effect of sanctions; to reduce the number of fine defaulters in custody; and to ensure the fine enforcement system is efficient and effective. The Act is due to commence operation on 1 January 1998. The amnesty period in relation to existing fine defaulters provided for in the Act commenced on 1 October 1997.

During the implementation process for the new fine enforcement system, a number of operational issues have been identified which impact on the effectiveness of the Act. This bill seeks to address those issues and to improve the overall effectiveness of the new system when it commences operation in January. I now turn to the provisions of the bill. The bill proposes to amend section 8 of the Act to allow a registrar of a court where a fine is imposed to direct the payment of that fine to another court. The provisions of the Fines Act will still allow a fine to

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be paid at any court. This amendment will allow the court registrar to direct payments which are normally made

by mail to a centralised location. In this way the courts can use their resources more effectively and take advantage of offices that have computerised systems for processing fine payments.

The Fines Act prevents the Roads and Traffic Authority from doing business with a fine defaulter. But the Government believes that a young person should not be prevented from obtaining a driver's licence in the first instance because of a unpaid fine which was incurred as a child. Accordingly, the bill amends section 65 to allow the Roads and Traffic Authority to issue a first driver's licence to a person who has an unpaid fine for an offence committed when that person was a child. The amendment does not prevent a young person who is already the holder of a driver's licence and who commits an offence from losing that driver's licence if he or she fails to pay the fine. The bill amends section 81 of the Act to ensure that the maximum number of hours of community service work that a person under the age of 18 years can be required to perform is 100 hours. The section is also amended to allow a child to perform work under several such orders concurrently. In this way the amendments preserve the existing provisions of the Children (Community Service Orders) Act 1987 in relation to children performing community service work.

The Fines Act provides separate mechanisms for enforcing monetary orders, depending on whether the monetary order falls within or outside the definition of a fine provided under section 4 of the Act. Monetary orders falling outside the definition will be enforced civilly under part 6 of the Fines Act. Division 2 of part 2 of the Act provides mechanisms for the payment of fines. Those provisions include the time in which a fine must be paid and the granting of further time to pay. The bill inserts a new section into the Fines Act which will apply the provisions of that part to ancillary monetary orders that will be enforced civilly under part 6 of the Act. These amounts typically include court costs payable against private informants and compensation payments.

Part 2 of schedule 3 to the Act provides for an amnesty period to run for at least three months prior to the application of the Fines Act to existing fine defaulters. That amnesty period commenced on 1 October 1997. Clause 2(1) of the schedule prohibits the issue or execution of a warrant of commitment during the amnesty period. Currently, the provisions of the Justices Act 1902 allow a fine defaulter who is already in prison under a prior conviction to call in outstanding fines so that they might be satisfied during that single term of imprisonment. The bill proposes to continue the provisions of the Justices Act in relation to prisoners cutting out warrants during the amnesty period. The bill also contains a number of transitional provisions that will ensure that all fines and penalties unpaid at the commencement of the Fines Act will be able to be enforced.

These unpaid penalties include a number of matters which have been referred to the Roads and Traffic Authority by the New South Wales Police Service for cancellation of a driver's licence or vehicle registration under section 18C of the Motor Traffic Act. In these matters, the authority has been unable to effect a licence or registration cancellation because these fine defaulters do not have a current licence or vehicle registration. The provisions of the bill will allow for these matters to be enforced. The bill also contains transitional provisions to provide mechanisms to enforce unpaid fines imposed under Commonwealth laws and to enforce fines and penalties against fine defaulters who reside outside the State. At present, the Commonwealth is unable to use the State Debt Recovery Office, which is the administrative body established by the Fines Act to enforce unpaid fines. A similar situation exists in relation to enforcing unpaid fines and penalties imposed under New South Wales laws when the fine defaulter resides outside the State of New South Wales.

Until the Commonwealth amends its legislation these fines must continue to be enforced by a court of summary jurisdiction. The bill provides for the regulations to establish a fine enforcement regime based on the existing enforcement provisions to allow the enforcement of these amounts to continue for a short period. The Commonwealth is expected to put in place legislation which will allow it to use the provisions of the Fines Act within the transition period. The bill also provides transitional provisions which will ensure that penalty notices issued under the existing enforcement system are enforceable under the new system. The bill anticipates that there may be a small number of matters which, due to the mechanics of moving from one system to another, may result in an enforcement order not being made within the time limit set for doing so by the Act. The amendment overcomes this problem and ensures that fine defaulters do not escape appropriate fine enforcement sanctions.

Sections 66(3) and 68(4) will be amended to make it clear that fines the subject of enforcement action are not payable to the Roads and Traffic Authority. The Fines Act is an important piece of legislation which will provide New South Wales with an efficient and effective fine enforcement system in which the integrity of the fine is preserved. The amendments contained within this bill will add to the operational effectiveness of the Act, and I commend the bill to the House.

Debate adjourned on motion by Mr Beck.

LAW ENFORCEMENT (CONTROLLED OPERATIONS) BILL

Bill introduced and read a first time.

Second Reading

Mr AMERY (Mount Druitt - Minister for Agriculture), on behalf of Mr Whelan [9.57 p.m.]: I move:

That this bill be now read a second time.

Criminals will use any method to commit crimes and protect themselves and their ill-gotten gains. The purpose of this bill is to allow law enforcement agencies to use similar methods to fight crime while at the same time providing a strict system of accountability for the use of otherwise unlawful activities. The bill provides for the authorisation, conduct and monitoring of operations involving what might otherwise be unlawful activities. These are to be known as controlled operations. This bill will achieve four things. Firstly, it will provide undercover officers with protection against criminal prosecution for offences committed in the course of a controlled operation. Secondly, it will put in place a tight accountability mechanism for the approval and oversight of controlled operations.

Thirdly, it will remove any doubt as to the legal status of evidence obtained in the course of a controlled operation. Finally, it will implement one of the recommendations of the Royal Commission into the New South Wales Police Service. Controlled operations will be used by the Police Service, the Independent Commission Against Corruption, the New South Wales Crime Commission and the Police Integrity Commission in the fight against crime and corruption. Undercover operations are an important investigative tool. They allow law enforcement agencies to infiltrate criminal groups and to obtain evidence to prosecute the crimes these groups commit. In some cases, undercover officers have to commit offences in the course of an investigation.

For example, in a drug operation an undercover operative posing as a buyer cannot actually take possession of drugs without technically committing an offence. Furthermore, evidence obtained in a controlled operation may be subject to challenge in court. The admissibility of evidence collected during undercover operations has been under a cloud since the 1995 High Court decision in the Ridgeway case. In that case, the High Court found that the Australian Federal Police acted illegally in a sting operation that involved an informant passing on heroin to a police officer. The illegal conduct of the police officers tainted the evidence obtained in the operation. In the end, the prosecution was lost.

It was largely as a result of the uncertainty created by the Ridgeway case that the Royal Commission into the New South Wales Police Service recommended that legislation be introduced in New South Wales to overcome the problems for undercover operations presented by the Ridgeway decision. The bill now before the House overcomes the Ridgeway problem. It legitimises the actions of undercover officers and permits evidence obtained in authorised controlled operations to be classified as legal and prima facie admissible. Ultimately, of course, the question of admissibility of evidence will remain an issue for the court to determine in accordance with section 138 of the Evidence Act 1995.

It is important that the practical implications of this bill are fully understood, and I shall therefore explain

a number of its provisions in some detail. Firstly, this bill is intended for use only by prescribed law enforcement agencies. These are defined in clause 3 to be the Police Integrity Commission, the Independent Commission Against Corruption, the New South Wales Crime Commission and the Police Service. Only the most senior officers of law enforcement agencies will be able to authorise controlled operations. The commissioners of the Police Integrity Commission, the Independent Commission Against Corruption and the New South Wales Crime Commission, along with the commissioner and deputy commissioners of the Police Service, will be the only officers permitted to give such authorisations.

Clause 5 of the bill refers to the manner in which an application must be made. It requires that an application be made in writing. As applications are to be accountable documents, they must also be signed by the applicant. All applications must contain sufficient detail to allow the authorising officer to make an informed decision. For example, they must be accompanied by a plan that outlines

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how the investigation will be conducted, what the objective is, and why a controlled operation is necessary. An application must also identify those who are to participate in an operation and the nature of the unlawful conduct in which it is proposed they will engage. When considering whether to approve a controlled operation, the authorising officer must be satisfied of a number of things. These are set out in clause 6. Specifically, the authorising officer must be satisfied that there are reasonable grounds to suspect that criminal or corrupt conduct has been, is being or is about to be carried out. He or she must also be satisfied that this activity is sufficiently serious to warrant a controlled operation being conducted.

Approval may be granted only in circumstances in which the scope of the proposed controlled operation is sufficient to deal with, but not exceed, the conduct being investigated. The use of alternative, more traditional investigative tools should always be considered. Minor matters and matters that can successfully be investigated by traditional means will not be considered for controlled operations. In practice, controlled operations will be used only when traditional methods of investigation are inadequate. This means that they are aimed at the investigation of serious matters like drug trafficking, money laundering, child pornography, organised crime and corruption.

Clause 6 contains other considerations that are intended as guidelines for authorising officers when determining applications. For example, an authorising officer must have regard to the reliability of any informant involved in an operation. It is to be expected that controlled operations based on intelligence from an unreliable informant would only be approved if supported by some other independent source of information. Importantly, there are limits to what can be authorised. Clause 7 expressly prohibits the approval of a controlled operation if there is likely to be any undue risk to the operatives involved or to any other person. Clause 7 also prevents approval of operations in which there is a risk of serious damage to the property of others. It is not appropriate to authorise controlled operations when there is a high risk of liability for damages. Similarly, undercover officers cannot be authorised to act as agent provocateurs by enticing targets to commit crimes.

There is accountability at every step of the process in this bill. In addition to the requirement that applications be made in writing, an approval to conduct a controlled operation must also be made in writing. The authority must specify the officer responsible for conducting the operation. It must also identify those who are authorised to participate. In the case of undercover officers, the authority must identify the nature of the controlled activities in which they are authorised to engage. In the case of civilian participants, the authority must specify the particular controlled activities that they can undertake.

The authority must also note if any participant has approval to use an assumed name. Assumed names are used to protect the life and safety of participants and their families. In the interests of security, the bill therefore extends protection through to any court proceedings arising from a controlled operation. Clause 28 allows a court to suppress the real identity of participants who have used an assumed name in a controlled operation. Disclosure of the real identity of a participant in contravention of an order under clause 28 is an offence carrying a penalty of 50 penalty points and/or imprisonment for 12 months.

The importance of the approval, and compliance with its terms, must not be underestimated. The written

authority sets clear parameters for the conduct of each controlled operation. Operatives and civilians who breach the terms of the authority do so at their own risk, as they will lose the protection provided under clauses 18 and 19 of this bill. An authority has a maximum life of three months, after which time a renewal must be sought if the operation is continuing. This ensures that officers are not given carte blanche and that controlled operations are reviewed at a senior level on a regular basis.

Clause 10 provides for variations of approvals. An authority may be varied to reflect changes in circumstances. For example, it may add or substitute participants or change the principal law enforcement officer. Clause 10 also allows additional or alternative controlled activities to be approved. Variations will ensure that undercover officers can respond to opportunities to investigate, prevent or prosecute serious crime and corruption that they encounter during an operation, for example, in an operation in which an undercover officer is authorised to participate in activities involving drugs and is offered firearms as part of the deal.

Importantly, the same restrictions on approval found in clause 7 apply to applications for a variation. From time to time circumstances will arise in a controlled operation that could not reasonably have been foreseen and which are likely to involve an operative in unlawful activity that has not been authorised. In such circumstances the operative, or another law enforcement officer acting on his or her behalf, should make an urgent application to vary the authority in accordance with clause 10. However, it is anticipated that circumstances will arise in which it is neither safe nor possible for an operative to seek such approval. In the normal course of events, this means that the officers should

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not engage in the additional, unauthorised conduct. Should they do so, they will not have the protections provided by this legislation.

The single exception will be when an operative is faced with a situation in which his or her own safety, or the safety of another, is under threat. In such circumstances, clause 14 permits an application for retroactive approval to be made within 24 hours. Retroactive approvals may be granted only when certain conditions are met. Firstly, the operative must at all times have been acting in good faith and in accordance with the agency's code of conduct. Secondly, the applicant must have been operating under a reasonable belief that he or she, or another person, would be seriously harmed should the unauthorised conduct not be undertaken.

Whilst unlikely to be used frequently, the provisions of clause 14 are essential. They provide protection for operatives when exposed to the most dangerous of situations. Nevertheless, approvals will be granted only when there is an assurance that the operative acted in good faith. In addition to the rigorous requirements for obtaining approval for a controlled operation, external accountability will be provided through oversight by the Ombudsman. Under clause 21, the Ombudsman must be notified within 21 days of all authorisations, variations and renewals. Authorising officers must also notify the Ombudsman of receipt of reports on completed operations made under clause 15.

The Ombudsman must audit and inspect controlled operations of all agencies annually, and report to Parliament on the number of operations conducted, the type of criminal activity against which they were directed and the nature of the controlled activities in which they engaged. In addition, the Ombudsman has the power to make special investigations at any time, and to report any breaches of the legislation to Parliament by way of a special report. Before an agency will be able to access the protections provided by this legislation, it will be required to have in place a code of conduct. Codes of conduct for each agency must be approved by the inspector of the Police Integrity Commission, and will be included in the regulations.

At all times operatives and other participants engaged in controlled operations will be expected to abide by the relevant code of conduct. The code is mandatory and will provide guidance for the professional conduct of operatives and participants during controlled operations. Aside from the operational accountability enshrined in this bill, regard must be given to the occupational health and safety risks faced by undercover officers. In order to minimise risk, authorising officers must be satisfied that operatives are properly trained and are not permitted to expose themselves to unnecessary risk of harm. Whilst on this point I note the Police Association's support for this bill. Although this is landmark legislation, it is not the first legislation of its type in Australia. The

Commonwealth enacted the Crimes Amendment (Controlled Operations) Act in 1996. That Act provides immunity from criminal and civil prosecution for law enforcement officers who engage in unlawful activities to further an authorised criminal investigation. The investigation must be specifically directed at a Commonwealth offence involving the importation, exportation or possession of narcotic goods.

South Australia enacted the Criminal Law (Undercover Operations) Act in 1995. That Act permits police officers of or above the rank of superintendent to approve undercover operations and the involvement of law enforcement officers in authorised activities to gather evidence of serious criminal behaviour. Under the provisions of the Victorian Drugs, Poisons, and Controlled Substances Act 1981, law enforcement officers who participate in authorised criminal investigations are deemed not to be offenders in or accomplices to activities during an investigation under the Act which would otherwise be unlawful. It is understood that Queensland has draft legislation to ensure that undercover operations are conducted in appropriate circumstances and properly supervised, and that law enforcement officers who engage in unlawful activities as part of an authorised undercover operation are protected from criminal liability. The distinguishing factor of this bill is its high level of accountability. This bill will ensure that undercover operations continue to be an effective investigative tool and one that is highly accountable.

As I have already indicated to the House, one area on which this bill will first impact is that of the integrity testing of police officers. The bill will allow the already successful integrity testing program to be enhanced and expanded, and to become an even more effective anticorruption weapon. The bill provides for a review of the first 12 months of its operation. Clause 32 requires that a report to Parliament be made within three months of the end of the review period. This will provide an opportunity to ensure that the legislation is working as intended and that the accountability mechanisms are effective. This legislation will be the benchmark for the regulation of undercover operations conducted by law enforcement agencies in Australia. I commend the bill to the House.

Debate adjourned on motion by Mr Beck.

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BUSINESS OF THE HOUSE

Extension of Sitting

Motion by Mr Martin agreed to:

That the sitting be extended beyond 10.30 p.m.

FISHERIES MANAGEMENT AMENDMENT BILL

In Committee

Consideration resumed from 13 November.

Schedule 1

Mr J. H. TURNER (Myall Lakes) [10.14 p.m.], by leave: I move Opposition amendments Nos 1 and 2 in globo:

No. 1 Page 15, Schedule 1[9] (proposed section 220I(4)), line 9.

Insert "frivolous, mischievous or" before "vexatious".

No. 2 Page 15, Schedule 1[9] (proposed section 220J(3)(c)), line 30.

Insert "frivolous, mischievous or" before "vexatious".

The purpose of adding the words "frivolous" and "mischievous" is simply to enact a legal axiom. It will ensure that persons cannot make a frivolous or mischievous nomination under proposed sections 220I(4) and 220J(3)(c) which would disrupt the normal operations of the scientific committee or the nomination process. In my contribution to the second reading debate I said that a person could nominate a fairly common species of fish such as mullet or flathead to thwart and frustrate the normal process.

Mr MARTIN (Port Stephens - Minister for Mineral Resources, and Minister for Fisheries) [10.17 p.m.]: The Government will not support these amendments. However, I understand the honourable member's intent and his wish to ensure that all the loopholes are closed. The Government is not of the view that the amendments will strengthen the bill, but I duly note the honourable member's sentiments.

Amendments negatived.

Mr J. H. TURNER (Myall Lakes) [10.18 p.m.], by leave: I move Opposition amendments 3 and 4 in globo:

No. 3 Page 26, Schedule 1[9] (proposed section 220ZC(1)), line 30.

Omit "by an act". Insert instead "by a deliberate or negligent act".

No. 4 Page 27, Schedule 1[9] (proposed section 220ZD), line 15.

Omit "by an act". Insert instead "by a deliberate or negligent act".

The purpose of these amendments is to ensure that persons such as the Minister are not caught by the openness of the proposed sections. I referred in some detail to the occasions on which this Minister in his capacity as Minister for Mineral Resources, the Minister for the Environment and the Minister for Urban Affairs and Planning, by their day-to-day activities, could breach the Act as it presently stands. Adding the words "by a deliberate or negligent act" will strengthen the section and remove the possibility of someone innocently breaching the Act. It will protect the Minister, employees of the Crown, bureaucrats, various government departments and the residents of New South Wales. The Opposition strongly urges the Minister to consider the amendments.

Mr MARTIN (Port Stephens - Minister for Mineral Resources, and Minister for Fisheries) [10.20 p.m.]: The Government accepts what the honourable member has said. Although it appreciates his desire to constructively improve the legislation, it nevertheless will not support the amendments.

Amendments negatived.

Schedule agreed to.

The TEMPORARY CHAIRMAN (Mr Mills): Order! I welcome guests of the honourable member for Auburn to the gallery.

Schedule 2

Mr J. H. TURNER (Myall Lakes) [10.22 p.m.], by leave: I move Opposition amendments 5, 6 and 7 in globo:

No. 5 Page 71, Schedule 2[9] (proposed section 101D), lines 1 and 2.

Omit "not" wherever occurring.

No. 6 Page 71, Schedule 2[9] (proposed section 101D), line 3.

Omit "because". Insert instead "if".

No. 7 Page 71, Schedule 2[9] (proposed section 101D).

Insert after line 6:

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(2) Compensation payable under this section is payable to persons who had entitlements to take fish in the fishery when it ceased to be a commercial managed fishery and is payable according to the market value of those entitlements. Section 44 applies to that compensation in the same way as it applies to compensation payable under that section on a fishery ceasing to be a share management fishery.

These amendments refer to the compensation provisions in the amending legislation. Under proposed new section 101D compensation will be payable to a commercial managed fishery in the event that the fisheries ceases to be a commercial managed fishery at the end of the period for which it was declared or at any time within that period. This is an act of faith by the commercial fishing sector. It has been clearly spelt out by me in this House, by press release and in the media that the Opposition believes the Minister wants to implement a restricted fishery in New South Wales. Under this legislation that restricted fishery will be called a commercial managed fishery. It is a fishery under another name.

The Minister is seeking in this legislation to enforce non-compensation to fishermen in the event that a commercial fishery is created. Under the concept of a share managed fishery in the Fisheries Management Act which was accepted, understood and agreed to by all fishermen in New South Wales, compensation was payable in the event that a fishery ceased to become a fishery. That provision should be mirrored in this legislation for commercial managed fisheries. The Minister has specifically spelt out in this legislation that no compensation will be payable. The Minister wants to remove the rights of fishermen to any compensation if the Government acts arbitrarily.

The Minister stands condemned. His legislation shows clearly where the Government and the Minister are heading. If commercial fishermen go into a restricted fishery, which is what a commercial managed fishery is, those fishermen will not be compensated by an arbitrary act. The Government can close a fishery, and it is fundamentally wrong that people will not be eligible for compensation because of the Government's action. That happened with the Coal Acquisition Amendment Bill, and it is now happening with the Fisheries Management Amendment Bill. If the Government removes the livelihood of commercial fishermen in New South Wales, those commercial fishermen should be entitled to compensation.

Mr MARTIN (Port Stephens - Minister for Mineral Resources, and Minister for Fisheries) [10.26 p.m.]: The Government will not agree to the amendments. The bill states that compensation is not payable by or on behalf of the State because a fishery ceases to be a commercial managed fishery at the end of the period for which it was declared to be a commercial managed fishery or at any time during that period. The Fisheries Management Act is clear about compensation. If fishermen wish to vote, through their management advisory systems, for a share managed fishery or a commercial managed fishery, that is their choice. If everything stacks up appropriately, the Government will support it.

In the meantime, I make it clear that compensation will not be payable under this section. In New South Wales 800 areas have been closed to fishing. The fishing fraternity is already subject to many restrictions on what it can and cannot do. Those restrictions are imposed under other sections of the Fisheries Management Act. The honourable member wants people to be compensated for changing the ground rules. It will stick by the words in the legislation, which are clear. It will not support the amendments. However, it is aware that the Act

contains a provision on compensation and it will, accordingly, honour that provision.

Mr J. H. TURNER (Myall Lakes) [10.29 p.m.]: The Minister, by use of this obscure section relating to restricted fisheries, continues to bear the odium of his mismanagement of the Act. He is simply seeking to change the name to remove that odium and to restate the principle in the restricted fisheries that no compensation is payable. The Opposition has constantly said, as has the commercial fishing sector of New South Wales, that compensation should be payable in the event that the Government arbitrarily removes the right to fish in these fisheries. I restate that the Opposition is convinced that the Government is moving by stealth under this legislation by referring to restricted fisheries as commercial managed fisheries. The Opposition sees no reason to resile from the fact that if the Government arbitrarily takes away the right of people to earn money, those people should be entitled to compensation.

Mr MARTIN (Port Stephens - Minister for Mineral Resources, and Minister for Fisheries) [10.31 p.m.]: The 1994 legislation was heralded through this Parliament as great legislation, but it also had great gaps. The Act did not allow for restricted fisheries, or commercial managed fisheries, whatever they might be called, before we moved to another system. This system is very clear: the term "commercial managed fisheries" is the wish of the industry so that we do not have any misunderstanding with the meaning of the term
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"restricted fisheries". The Government honours the legislation that was clumsily forced through this Parliament in 1994, but it will not give an open chequebook on this occasion.

Mr J. H. TURNER (Myall Lakes) [10.32 p.m.]: I did not want to speak again but as the Minister has insulted his Premier I feel I have to defend the Labor Premier of New South Wales. The Minister said that this legislation was clumsily forced through and had gaps, and he made other allegations. In June 1995 the Government sponsored an international symposium on red tape at Darling Harbour. Do honourable members know which regulation was cited at that symposium as the pinnacle of regulations that should be adopted?

The example of the best regulation ever made was signed by the Hon. R. J. Carr, Premier of New South Wales, and it related to share managed fisheries. I add that this Minister was prohibited from attending that symposium, but that is another story. The Minister is now telling us that the 1994 legislation was full of holes, that it was pushed through, and so on. Minister, when there is a Cabinet reshuffle the week after next I hope you get something that you enjoy, because you have just told the Premier that he got it totally wrong. Minister, you are wrong; people are entitled to be compensated if they are affected by government action.

Question - That the amendments be agreed to - put.

The Committee divided.

Ayes, 42

Mr Armstrong	Mr O'Farrell
Mr Beck	Mr D. L. Page
Mr Blackmore	Mr Peacocke
Mr Brogden	Mr Phillips
Mr Chappell	Mr Richardson
Mrs Chikarovski	Mr Rixon
Mr Cochran	Mr Rozzoli
Mr Cruickshank	Mr Schipp
Mr Debnam	Mr Schultz
Mr Downy	Ms Seaton
Mr Ellis	Mrs Skinner
Ms Ficarra	Mr Small
Mr Fraser	Mr Smith
Mr Glachan	Mr Souris

Mr Hartcher	Mr Tink
Mr Hazzard	Mr J. H. Turner
Mr Humpherson	Mr R. W. Turner
Dr Kernohan	Mr Windsor
Mr Kinross	
Mr MacCarthy	<i>Tellers,</i>
Mr Merton	Mr Jeffery
Mr O'Doherty	Mr Kerr

Noes, 50

Ms Allan	Mr Martin
Mr Amery	Ms Meagher
Mr Anderson	Ms Moore
Ms Andrews	Mr Moss
Mr Aquilina	Mr Murray
Mrs Beamer	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori
Mr Debus	Mr E. T. Page
Mr Face	Mr Price
Mr Gaudry	Dr Refshauge
Mrs Grusovin	Mr Rogan
Ms Hall	Mr Rumble
Mr Harrison	Mr Scully
Ms Harrison	Mr Shedden
Mr Hunter	Mr Stewart
Mr Iemma	Mr Sullivan
Mr Knight	Mr Tripodi
Mr Knowles	Mr Watkins
Mr Langton	Mr Whelan
Mrs Lo Po'	Mr Woods
Mr Lynch	Mr Yeadon
Dr Macdonald	
Mr McBride	<i>Tellers,</i>
Mr McManus	Mr Beckroge
Mr Markham	Mr Thompson

Pair

Mr Collins	Mr Gibson
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Question so resolved in the negative.

Amendments negatived.

Mr MARTIN (Port Stephens - Minister for Mineral Resources, and Minister for Fisheries) [10.41 p.m.]: I move:

Page 76, Schedule 2. Insert after line 22:

[14] Section 284 Public consultation procedure

Insert at the end of the section:

(3) In the case of a fisheries management plan (including a new plan):

(a) there is also to be exhibited with the plan an impact statement relating to the plan that includes the matters required to be included in a regulatory impact statement under Schedule 2 to the *Subordinate Legislation Act 1989*, and

(b) if the plan is made - a copy of the impact statement and all written submissions received by the Minister before it is made are to be forwarded to the Regulation Review Committee within 14 days after the plan is made.

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I ask the Chairman of the Regulation Review Committee to speak to the amendment on behalf of the Government.

Mr SHEDDEN (Bankstown) [10.42 p.m.]: This amendment implements the recommendations of the Regulation Review Committee, to which I referred earlier in debate. Arguably this is the quickest implementation recorded of a recommendation made by the Regulation Review Committee. I thank the Minister for his early attention to this matter.

Mr J. H. TURNER (Myall Lakes) [10.42 p.m.]: The Chairman of the Regulation Review Committee can correct me if I am wrong, but my understanding is that this amendment removes the sunset clause by removing the requirement for the impact statement. Management plans will be open-ended and will not be reviewed after five years - obviously to continue ad infinitum. In something as dynamic as fishing, management plans should be reviewed at least every five years. If the regulatory impact statement had been adhered to, a five-year review would have occurred as a matter of course. Quite frankly, fisheries will be worse off because this amendment will allow an open-ended procedure without any regulation or management plan review after a period of time.

Mr MARTIN (Port Stephens - Minister for Mineral Resources, and Minister for Fisheries) [10.44 p.m.]: Every five years the department reviews all regulations, whether for salt water, fresh water or spear fishing. The plans will be updated every five years. The amendment is a policy decision and can work effectively only in this way.

Mr J. H. TURNER (Myall Lakes) [10.44 p.m.]: What does the Minister have to hide? He should allow the process to remain as it is and conduct reviews every five years by way of regulatory impact statement.

Amendment agreed to.

Schedule as amended agreed to.

Schedule 3

Mr J. H. TURNER (Myall Lakes) [10.45 p.m.]: The schedule relates to the recreational freshwater fishing fee. Deleting the schedule would remove from the bill all that section that refers to the new Carr Labor Government tax on country New South Wales fishers. In my contribution to the second reading debate it was spelt out clearly that the freshwater fishing fee is a discriminatory tax as it applies to a specific number of people, namely, those fishers from inland New South Wales. The proposal is a bureaucratic nightmare. It will not raise sufficient funds to achieve the results set out in the objectives of the bill.

The imposition of a fishing fee takes us back to the days when the Labor Party had the administration of fisheries prior to 1988. When the coalition came to government that administration was wanting and it is still wanting. Those who fish in salt water can take it as read that this fishing fee is a precursor to a freshwater and saltwater fishing tax throughout New South Wales. It is a significant matter for the National Party because it is not just a fishing tax on the people of inland New South Wales; it is also a tax on tourism. Those who want to spend a few dollars on fishing will find that they will have to pay an additional fee.

As the coalition outlined clearly and concisely in the second reading debate, on mathematical calculations this fee simply will not yield moneys necessary to show any benefit for inland New South Wales. Rather, the impact will be on people not to go inland to fish because they will have to pay an extra fee. Quite simply, the Minister has got it wrong. He will be punishing people for carrying out what has been a right to fish over a long period in a responsible manner. New South Wales has many inland fishing clubs that carry out their requirements responsibly. Effectively, this fee is a tax on those clubs.

[*Interruption*]

I take note of the remark by the honourable member for Manly. Narrabeen Lake, which is near his electorate, will be subject to the fishing fee and the honourable member's constituents will have to pay to throw in a line. This fee is revenue raising. It is wrong, it is discriminatory and it should be rejected.

Mr MARTIN (Port Stephens - Minister for Mineral Resources, and Minister for Fisheries) [10.48 p.m.]: The upper House recommended the amendment. It was supported by a poll and by many groups. The benefits to New South Wales will be huge. I refer honourable members to the second reading speech and reply in *Hansard*, which was supported by the honourable member for Monaro. The Government will not accept the amendment of the honourable member for Myall Lakes.

Mr J. H. TURNER (Myall Lakes) [10.49 p.m.]: I trust the Minister embraces all parts of the upper House inquiry as much as he has embraced this particular aspect.

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Question - That the schedule be agreed to - put.

The Committee divided.

Ayes, 49

Ms Allan	Mr Martin
Mr Amery	Ms Meagher
Mr Anderson	Ms Moore
Ms Andrews	Mr Moss
Mr Aquilina	Mr Murray
Mrs Beamer	Mr Nagle
Mr Crittenden	Mr Neilly
Mr Debus	Ms Nori
Mr Face	Mr E. T. Page
Mr Gaudry	Mr Price
Mrs Grusovin	Dr Refshauge
Ms Hall	Mr Rogan
Mr Harrison	Mr Rumble
Ms Harrison	Mr Scully
Mr Hunter	Mr Shedden
Mr Iemma	Mr Stewart
Mr Knight	Mr Sullivan
Mr Knowles	Mr Tripodi
Mr Langton	Mr Watkins
Mrs Lo Po'	Mr Whelan
Mr Lynch	Mr Woods
Dr Macdonald	Mr Yeadon
Mr McBride	<i>Tellers,</i>

Mr McManus	Mr Beckroge
Mr Markham	Mr Thompson

Noes, 42

Mr Armstrong	Mr O'Farrell
Mr Beck	Mr D. L. Page
Mr Blackmore	Mr Peacocke
Mr Brogden	Mr Phillips
Mr Chappell	Mr Richardson
Mrs Chikarovski	Mr Rixon
Mr Cochran	Mr Rozzoli
Mr Cruickshank	Mr Schipp
Mr Debnam	Mr Schultz
Mr Downy	Ms Seaton
Mr Ellis	Mrs Skinner
Ms Ficarra	Mr Small
Mr Fraser	Mr Smith
Mr Glachan	Mr Souris
Mr Hartcher	Mr Tink
Mr Hazzard	Mr J. H. Turner
Mr Humpherson	Mr R. W. Turner
Dr Kernohan	Mr Windsor
Mr Kinross	
Mr MacCarthy	<i>Tellers,</i>
Mr Merton	Mr Jeffery
Mr O'Doherty	Mr Kerr

Pair

Mr Gibson	Mr Collins
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Question so resolved in the affirmative.

Schedule agreed to.

Schedule 5

Mr J. H. TURNER (Myall Lakes) [10.57 p.m.]: This schedule relates to charter fishing boats. The amendments were framed only on the basis that the Government had not consulted properly with the charter boat industry. In my contribution to the second reading debate I was careful to point out to the Minister that he should consult the industry and bring back legislation containing meaningful words, and that the Opposition would then consider proposed amendments on their merits. At no time did the Opposition say that it was opposed to amendments relating to charter boats per se; it said only that this bill is ill-conceived and vague in format.

By way of correction, I advise the House that I received a letter from one of the representatives who came to see me, and the Minister, last week. I remember asking when I met those people, "To play the devil's advocate, why wouldn't you wish to have the industry capped and licensed, as the Minister proposed in his second reading speech, because it would be similar to a taxi cab or another windfall?" I remember using the words "play the devil's advocate" twice. Mr Alan Ross, whose bona fides I do not doubt for one moment, made a sensible contribution to the discussion. He wrote to the Minister on the same day and sent a copy of the letter to me. Mr Ross said in paragraph 3 of that letter:

In addition, Mr Turner stated that he could not understand how some of the charter operators did not want licensing as this was in their best business interests.

That is not what I said. Within half an hour of receiving that facsimile from Mr Ross, I replied to him as follows:

I thank you for the copy of the letter you sent to the Minister today, the contents of which I have noted. I would seek, however, to clarify certain matters pertaining to myself in relation to the licensing of charter boats referred to in the third paragraph of your letter. As I clearly recollect the discussions, I said not once but twice that I was playing the devil's advocate in asking why the industry would reject licensing when it was possible there would be a windfall gain to the industry. My comments were in the form of a question to elucidate a response from the meeting, not a statement of my

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intention which I think was clear at that time that I wanted simply more time for this bill to be in the public arena for consultation.

That is exactly where we were in regard to this matter. We made it very clear that we were not opposing the legislation, that we merely wanted the Government to talk. I made a significant number of inquiries and received a significant number of replies, phone calls and letters, and it was obvious from my inquiries that there was confusion. I do not wish to rehash my contribution to the second reading debate but I read a number of letters onto the record and referred to a number of conversations I had which clearly indicated that there was confusion in the industry.

The Opposition wanted to say to the Minister, "Please go and talk to the industry and get back to us." This legislation and the amendments to it are riddled with the word "regulation" - a regulation may do this, that or something else. What I have asked the Minister and the Government to do is to enunciate what they are doing, not try to hide it in a plethora of regulations. The Minister is actually doing the Opposition a favour by seeking to encompass the substance of this part of the legislation in the regulations, because it will provide the Opposition with another opportunity if we do not consider the Minister has done the right thing by the industry.

I say again that the Opposition does not believe the Minister has consulted properly; it has reservations about the level of consultation, but perhaps we do have to look at the charter boat industry. I want to make it clear that the coalition was not opposing the legislation outright, but it was not necessarily supporting it. The Opposition was asking the Government, not unreasonably, to spell out the legislation, not to cloak it in regulations to be made at a later stage. Those whose future livelihood will be affected by the manner in which this legislation is enacted are entitled to know where they stand. It was bad legislation and cloaked in regulations. The Opposition reserves its right to examine the regulation when it is made. The Opposition accepts that some changes to the charter boat industry are necessary, and is prepared to allow the passage of the legislation. However, my intention was to put on the record the Opposition's concern that the Minister has failed to consult and has clouded the proposal.

Mr MARTIN (Port Stephens - Minister for Mineral Resources, and Minister for Fisheries) [11.03 p.m.]: The honourable member's contribution demonstrates his arrogance and ill-informed attitude. On 24 May I wrote to all charter boat operators. Port meetings were held up and down the New South Wales coast and there was extensive communication with the industry. The problem is that the industry is divided. Some operators do not want licensing, but others do. At the end of the day my job is to protect the fish stocks in this State. To that end the Government will push ahead with this legislation and I remind the Opposition that if it wants to be bloody minded the wheel will do a full turn and the matter will come back to haunt the Opposition. The honourable member should not be too arrogant or stupid about this issue. He should examine the legislation, which is designed to protect the fisheries of this State and ensure an abundant supply of fish, not only for existing businesses but for future generations. The Government will not support the deletion of the schedule.

Mr J. H. TURNER (Myall Lakes) [11.05 p.m.]: One of the Minister's problems is that his ears are blocked and he continues to verbal people. I did not intend to be arrogant; I said that the issue was about consultation. The Minister said that he wrote to all the charter boat operators. During the second reading debate I read onto the record a letter from Bianca Deep Sea and Game Fishing Charters. The letter stated:

The NSW Fisheries have undertaken a review of charter boats in NSW over the past few months and I fear that you have been misinformed with the feelings of the nature of the industry.

Firstly, Fisheries management has done an appalling job of involving the industry in consultation and failing to match the names of the operators with their right addresses. This mistake was made on the initial contact and has never been corrected. Less than 40% of the operators were contacted.

That is what the Opposition is referring to. The honourable member for Murwillumbah, the honourable member for Oxley, the honourable member for Port Macquarie and the honourable member for Coffs Harbour wrote to their charter boat operators. I am satisfied as a result of my endeavours and the endeavours of other members of the Opposition that the charter boat operators knew what was proposed, but the fact remains that the legislation does not spell out what the Minister is doing. Without wishing to belabour the point, in the second reading debate I referred to one particular section which stated that in the first instance the Minister may not do something, and in the second instance may do something or may do something else. The Opposition will accept that the charter boat industry needs to change, and we may be prepared

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to lay down on this aspect in the upper House, but the Minister should not treat people disrespectfully. He should tell them what he is going to do.

Some operators have invested tens of thousands of dollars, if not more, in the industry and they are entitled to know what the Government is going to do. The Opposition believes the Government has not done that. The Opposition has sent a message to the operators and they are talking to the Opposition. Some operators are saying that that is the way we should go. I reiterate that the Opposition is sympathetic to the Government's proposal, but it was necessary for the record to show that the Minister got it wrong in the first instance because it did not consult; he got it wrong in the second instance because he did not spell it out in the legislation. The Opposition accepts that there must be change in the charter boat industry.

Schedule agreed to.

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

POLLUTION CONTROL AMENDMENT (LOAD-BASED LICENSING) BILL

Second Reading

Debate resumed from 13 November.

Mr HAZZARD (Wakehurst) [11.10 p.m.]: The Opposition will not oppose this bill, which is effectively enabling legislation that will in due course permit regulations to be introduced to permit load-based licensing to be introduced as the basis for licensing to protect the New South Wales environment. The legislation amends the Pollution Control Act 1970 by setting up a licensing framework for scheduled premises or scheduled equipment as defined in the Clean Air Act 1961. It also sets up a framework for dealing with the pollution of waters within the definition of the Clean Waters Act 1970. As the overview says, the bill also covers the situation of, say, a drain which discharges or is likely to be used for discharging any pollutants into any classified waters within the meaning of the Clean Waters Act 1970.

The current licensing system used by the Environment Protection Authority primarily addresses the concentration of pollutants entering our air, water or land. That system is not designed to encourage industry, in particular, to find better ways of dealing with its pollution. Therefore the system is not in the best interests of the community. Load-based licensing was first considered by the New South Wales coalition Government in the years before it lost office in 1995. It is therefore somewhat disappointing that this Government has taken so long to introduce this load-based licensing legislation. That indicates that the Carr Government has dithered and produced this legislation nowhere near as promptly as one would have hoped, bearing in mind the large amount

of work that was done prior to the March 1995 election.

Load-based licensing is important for the improvement of the environment. The community has ever-increasing expectations of industry and of the community generally achieving an improvement in air, water and land quality. In 1994 the EPA conducted a survey that showed that close to 37 per cent of respondents said that by 2004 their priority would be improved environment. That is, it would be ahead of people's other priorities, such as jobs and all the other expectations they have in life. That is entirely understandable because, in the end, if our air and water are not clean, our quality of life will suffer and that will impinge on our health. Those of us who have children would like to see the Government rule a line, and from this point make sure that we improve our environment rather than continue to diminish it.

Some recent incidents have reminded us of the need for a very close and effective system to manage what enters our environment. Recently, sewage caused problems in Wallis Lake. Perhaps even now I cannot specifically say what the problem was but the suspicion is that it was sewage. As a result, one gentleman died from hepatitis A and hundreds of others suffered from it. There are other problems up and down the coast. The Clarence, Richmond and Brunswick rivers suffer from far too many pollutants entering their waters. Lake Macquarie, which is not far away, suffers from heavy doses of selenium and all sorts of other heavy metals and metalloids. Recently it was reported that Sydney is amongst the world's dirtiest cities with air pollution.

The Opposition has focused on these issues during other debates. Tonight it is sufficient to say that these are serious problems and we need to have a licensing system that will encourage polluters to address their pollution problems in the best possible way and to try to minimise them. They should be given incentives, including economic incentives, to reduce the contamination and pollution that enters our environment. The current system is focused largely on concentrations at the point of discharge of the pollution. That means that in total, substantial

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amounts of pollution can enter a particular area of the environment provided that, at the time of testing, the concentration in the discharge falls within the guidelines of the EPA licence.

We are now mature enough to consider the total load, for example, entering an air sink or a water catchment. For that reason this legislation is simply good sense. Interestingly enough it is supported both by industry and by the environment movement. Industry recognises that the legislation provides opportunities for it, as well as greater protection for the environment. Environmental groups and people simply interested in the environment recognise that if the total mass of pollutants entering water catchments or air sinks is looked at, the bigger pollution issue of how to improve our environment can be addressed.

Having explored the principle of load-based licensing when in government, the Opposition is pleased with it. Although there has been somewhat of a delay in the past couple of years, the legislation is now before the House. However, the Opposition is concerned that the regulations that will set out the amount of fees payable in regard to each of the various pollutants is nowhere to be seen. The indications from the Government and from the EPA are that there will be a public consultation process in February next year.

The Opposition looks forward to that process, although it would like to have at least seen the detail of the proposals upfront. The Opposition is mindful that it is important to strike the right balance in protecting our environment and at the same time ensuring that industry is not so debilitated that it simply packs up and leaves the State. I know from discussions I have had with some industry groups that there are some rather remarkable proposals floating around. One proposal would see Sydney Water's licence fees drop from about \$23 million a year to possibly as low as \$875 a year. I cannot say whether that is right or wrong. However, the available details have not allayed the coalition's concerns.

Other industry representatives indicated that a couple of major refineries in Western Australia told the Western Australian Government that they would pack up and leave the State if the Government imposed such a system because there was nothing in it for them. Needless to say, the Western Australian Government backed off fairly quickly. I urge the New South Wales Government to ensure that the consultation undertaken in

February is genuine and recognises the importance of getting the balance right. The system should not be heavy-handed and it should not be implemented without consideration being given to its effect upon jobs; at the same time we must find the right balance for the environment.

Talking to the Environment Protection Authority about this matter is a little like telling your grandmother how to suck eggs. Nevertheless, I urge the EPA to keep an open mind about the other side of the equation, that is business and industry, when it considers the environmental perspective. In view of the lateness of the hour I will not detail the load-based licensing system. Papers released by the EPA explain the system more than adequately. I encourage anyone interested in the details of load-based licensing to examine the environmental economic series load-based licensing scheme draft operational plan released in mid-1996.

That draft plan loudly and clearly sends the message that load-based licensing is the way to go. As I said, the Opposition will not oppose the legislation. Finally, I note that while introduction of the bill may have been delayed, I cannot complain about the briefings I have received in recent weeks. I thank the Minister for the Environment for arranging those briefings for the Opposition. I thank her ministerial staff, particularly Dick Shepherd and Emma Ashton, and my staff, including Maree Prendergast, for assisting me and my coalition colleagues to address this bill.

Mr RICHARDSON (The Hills) [11.22 p.m.]: This bill is a welcome but limited reform of the pollution regulation system in New South Wales. The current fee system, which is more than 25 years old, is based on controlling the concentration or dilution of pollutants in emissions to reduce immediate impacts on the environment. It could be likened to pouring paint or other chemicals down the sink without diluting them with water, or to the 1970s exhaust emission equipment that was fitted to cars which blew air into the exhaust manifold to dilute the pollutants - but of course the pollutants stayed there. That has been a particular problem for the environment over the past 25 years. The accumulated impacts of heavy metals such as lead and cadmium, selenium and other persistent pollutants have led to long-term degradation of the environment.

The Minister for the Environment did not visit the Werribee sewage treatment plant outside Melbourne when she was on the Water Board committee with me. However, she would recall that

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one problem at that facility is cadmium in the system. Effluent is flooded across fields and grass is grown in those fields, and cattle are raised on that grass. The cadmium tends to permeate the entire food chain; indeed, the cattle have to be removed from the Werribee area and raised on clean pasture for three to six months to eliminate the cadmium from their systems. That is indicative of the kind of problems that arise when we do not focus on the mass of pollutants entering the sewage treatment system. Our inland rivers and the Hawkesbury-Nepean river system are other examples of the problems caused by high-nutrient loads not only from sewage treatment plants but from fertiliser run-off. Individually, the problem may not be enormous but cumulatively it leads to serious degradation of water quality in the rivers.

I would like to pay tribute to an industry which has pioneered a form of load-based licensing in this country, that is, the photographic industry. Six years ago that industry developed a code of practice known as photographic uniform regulations for the environment. It is not just a New South Wales regulation, it is a national regulation for the management and disposal of liquid waste from photographic film and paper processes. Indeed, the photographic industry has brought the graphic arts industry on stream and that industry is adopting the same practices. The code of practice was developed by water authorities such as Sydney Water and PURE, which is a division of the Photographic and Imaging Council of Australia, as an environmentally sound guide to correct disposal within the limits of present technology.

The main aim of the code is to minimise the environmental impacts of liquid waste disposal from photographic film or paper processing. This includes using effective silver recovery systems, avoiding overreplenishment of chemicals, limiting wash water and using chemicals of lower toxicity when economically practicable. Indeed, the adoption of PURE principles by photo-processing laboratories has provided significant economic benefits. The silver is recovered and it is on-sold. Obviously, that has a fairly tangible economic value. The principles of avoiding overreplenishment of chemicals, limiting wash water and using chemicals of

lower toxicity will be applied to other industries through the load-based licensing system.

There is no question that the current fee system needs reform because it does not provide an incentive to reduce emissions below licence limits. The system does not conserve water; indeed, it encourages industry to use more water to dilute the pollutants entering the sewerage system. The Minister said in her second reading speech that good environmental performers are disadvantaged to the extent that they commit more resources to environmental protection than their competitors; and the cost of environmental harm caused by pollution is currently borne by the wider community, rather than by the licensees who caused the harm in the first place. Load-based licensing is a performance-based system, which is why it is supported by industry and environmental groups.

Pollution licenses will be based on total cumulative pollution and there will be economic incentives, as there are in the photographic industry, for performing better than the licence requires. The incentives will take the form of discounts and rebate schemes. The final fee structure will be set next year following the release of draft regulation and regulatory impact statements and a further period of consultation with industry. As the honourable member for Wakehurst said, the details of the fee structure would provide the Opposition with a better idea of how the whole package will work in an integrated fashion. But as usual the devil is in the detail. Unusually, the Government seems to have finally accepted that the carrot works better than the stick, although the Opposition does not feel that the bill has gone far enough.

The Minister said in her second reading speech that the EPA intends to use load-based licensing as a platform to implement emission trading schemes. Honourable members may be aware that in the United States a system of tradeable emission credits has operated since 1977, for the past 20 years, under regulation by the Clean Air Act 1970. The system provides that any source able to reduce emissions at any discharge point below the level established by its emission licence can apply for a credit for the excess reduction. These credits can be sold to other sources or used to satisfy emission standards at other discharge points. This so-called emission reduction credit has become a valuable commodity. Clearly it is in the economic interests of polluters to implement pollution reduction programs. The system also employs a bubble policy, which integrates all discharge points into one bubble emission standard.

The University of New South Wales Centre of Applied Economic Research examined tradeable emission credits and found that the system delivered good results. In fact, in Southern California the system appears to have resulted in significantly better air quality and to have delivered public and

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private cost savings of \$10 billion in the nine years between 1977 and 1986. The system has been good for the environment and for the economy. We hope the Government will introduce a similar system, a follow-on from load-based licensing, in the near future.

Ms ALLAN (Blacktown - Minister for the Environment) [11.30 p.m.], in reply: I thank the honourable member for Wakehurst and the honourable member for The Hills for their contributions to the debate and for their support of the bill. The honourable member for Wakehurst referred to the lack of specific regulations. I repeat: when the bill is in place the Government will finalise and release a draft regulation and regulatory impact statement, which will set out the full details of the scheme and proposed fee levels for consideration by all stakeholders. After the commentary period of February and March the Environment Protection Authority will consider the submissions and make any desirable adjustments to the draft regulation. When I am satisfied that the regulation provides the best possible licensing scheme for the State, I will commence the scheme by gazetting the regulation. As required under the subordinate legislation, a copy of the submissions received and any changes will be provided to the Regulation Review Committee within the required period. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CONTAMINATED LAND MANAGEMENT BILL

Second Reading

Debate resumed from 13 November.

Mr HAZZARD (Wakehurst) [11.32 p.m.]: In view of the lateness of the hour I will not use all the time available to me because some of my colleagues wish to speak to the bill. The Opposition does not oppose the bill, but it is a little disappointed that it has taken so long for the Government to produce the draft bill. The green paper - "Management of Contaminated Land in New South Wales: Proposals for a New Legislative and Administrative Framework" - was released in April 1996. The submissions were open for some 3½ months - which took it to July or August last year. A total of 143 submissions were received. The Opposition is a little concerned that the Government has taken so long to do something about the management of contaminated land. The Government does not appear to be committed to getting these issues in order. The Government has now introduced the bill. An exposure draft was tabled in October.

When the bill was tabled one of the concerns - the lack of co-ordination of the Government on these sorts of issues - was that draft guidelines or a SEPP 55 were not available for consideration. That matter has now been rectified. The planning guidelines for managing land contamination are in a draft form and are released through the Department Urban Affairs and Planning and the Environment Protection Authority. It is estimated that there are some 60,000 contaminated sites in New South Wales - but other estimates say that only 7,000 require remediation. Land may be contaminated for many reasons. I think the definition of "contamination" is anything above background, which means almost anything.

Clause 9 outlines the limited assessment of risk of harm. In a general sense, many activities could lead to contamination - industries associated with agriculture and horticulture, airports, chemicals manufacture and formulation, dry cleaning establishments, gas works, iron and steelworks, power stations, railway stations and service stations, sheep and cattle dips, and waste storage and treatment. The contamination of land has existed for a long while. We have to determine which contaminated sites are worthy of remediation. It obviously comes at a significant cost - be it to the polluter or to the landowner - depending on the level of contamination.

The bill seeks to put in place a set of accountabilities to manage contamination, particularly where a significant risk of harm is identified. The bill sets out the role of the Environment Protection Authority in the assessment of the contamination, and the supervision of the investigation, remediation and management of those contaminated sites. The bill provides the accreditation of site auditors of contaminated land to ensure appropriate standards of auditing and managing contaminated land. That was largely a rollover from the Environmentally Hazardous Chemicals Amendment Bill 1996, which was a major step forward. It was well considered by the Parliament at the time.

Mr Fraser: It was not proclaimed.

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Mr HAZZARD: No, it was not. However, a number of things flowed from it, such as regulatory impact statements and draft regulations. I do not think it was a major set back because the provisions have been rolled over into the Contaminated Land Management Bill. The work was not lost, just delayed. We have had a de facto system of accredited auditors - we have been using the Victorian accreditation model. Most of the people who do the auditing in New South Wales are also accredited in Victoria. The legislation has been welcomed by industry groups, environment groups and local government - although it expressed concerns about some aspects. The fact that industry and environment groups are prepared to support this legislation indicates that it should be passed unimpeded.

This legislation puts the onus where it should be: the polluter pays. Between the release of the exposure draft and the introduction of the bill many discussions have taken place with industry and environment groups,

and the Government has addressed most of the issues. The Minister had a shot at me in her second reading speech. She did not like the fact that the Opposition said consultation was important. But the Minister, the Environment Protection Authority and people in the Minister's office have risen to the occasion. The consultation appears to have worked, and it has worked to the Minister's advantage, because the bill will pass through this House unimpeded.

Discussions were held not only with industry and the environment movement but also with the Opposition about its concerns regarding farmers. Clause 9 of the bill sets out guidelines for issues to be taken into account in determining the risk of harm. A topic for discussion for some time has been what constitutes a significant risk and how it is determined. The industry, the environment movement, other members and I have asked whether a definition should be included in the legislation.

I concede that it is sensible not to be prescriptive in defining a significant risk. Certain issues will have to be given priority, but the items set out in clause 9 provide a guide. The last two subclauses refer to any guidelines made by the Environment Protection Authority on contamination and remediation, and any guidelines approved by the EPA on contamination and remediation. That is sufficient, and industry would appear to agree, to address in a proper and capable way significant risk of harm resulting from contamination of a site. Other aspects of the exposure draft that worried me appear to have been addressed. Clause 58(1) of the bill states:

A person who is aware that his or her activities in, on or under land have contaminated the land in such a way as to present a significant risk of harm must notify the EPA in writing that the land has been so contaminated.

The exposure draft implied that a person only had to have a belief that land was contaminated and that there was a significant risk of harm; it is now a case of knowledge and awareness. The Opposition thanks the Government for recognising that as a major issue and for introducing that amendment. It would be a farce, and it would be to the disadvantage of the community, if people had to report on a suspicion. That would approach the system that operates in Queensland, where property values have dropped dramatically as notifications are made to the EPA, which, like all EPAs, is not funded properly - except under coalition Governments in New South Wales. The Queensland EPA does not have the staff to check out the notifications and remove them from the register, therefore substantial blocks of land are devalued. The bill addresses that issue. Section 58(4) states:

Information provided by a person for the purpose of complying with this section is not admissible as evidence in any proceedings against that person for an offence under the environment protection legislation. However, the fact that a person notifies the EPA in accordance with this section does not prevent the EPA declaring the land to be an investigation area or remediation site or from making an investigation or remediation order in respect of that or any other person.

It was crucial for that provision to be inserted in the bill. As we advance in cleaning up the environment we have to make sure that people and industries are not scared to comply with the Act or to undertake their own investigations by way of site audits. It is important that they know that in taking action to clean up sites evidence will not be used against them in any other proceedings. The Government has recognised that and has extended that provision to any other environment protection legislation. I acknowledge the Government's recognition of the community's need to address the issue.

Contaminated land management is a big issue for the community. There is one point that I would like clarified. The Minister in her second reading speech addressed the issue of cattle tick dip sites. It must be recognised that people who have dipped their cattle in accordance with the directions of the Department of Agriculture will not have to remediate their sites in the normal course of their agricultural pursuits. The history and the practicalities are that cattle tick dip sites tend to be

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located in the corner of a property somewhere, as was pointed out by the director-General of the EPA during a briefing this week. Those tick dip sites are leased by the Department of Agriculture, and often adjacent property owners bring their cattle onto the property.

The result is that dangerous chemicals are in the vicinity of the site. If water is nearby the chemicals may move from the immediate vicinity to the adjacent vicinity. It is extremely important that farmers who have been doing that for years at the direction of the Department of Agriculture do not believe that they are required under the legislation to remediate. On one interpretation of the legislation, it is arguable that the tick dip sites require clarification. Negotiations have taken place between the Opposition and the Government in that regard. As a result the Opposition will move an amendment, which has been negotiated with the Government, reflecting the concerns of farmers. The concept of the amendment has been supported by the New South Wales Farmers Association.

Today I received a letter from Sue Salvin of the New South Wales Farmers Association indicating support for the amendment, which will remove that concern for farmers. I thank the Minister for her support for the amendment. It is perhaps excessive in legal jargon, and I have some concerns that it may not achieve what the Opposition wants. However, based on the assurances of the Government and Parliamentary Counsel, I believe it will. I seek an assurance from the Minister that this amendment will let farmers know that the Government and the Opposition are about making sure that farmers are totally clear of any liability for remediation of the site. In view of the late hour, I do not propose to address any other issues in the bill. I thank the Minister, who has been most accommodating in briefing the Opposition.

She has arranged briefings for particular individuals, and I thank her for that. The Director-General, Neil Shepherd, and the Assistant Director-General, Lisa Corbyn, of the Environment Protection Authority have given the Opposition abundant time. I thank the legal officers from the Environment Protection Authority, Justin Macinante, Donna Campbell and Melinda Richards, as well as the head of the contaminated land section, Cathie Dyer, for her continued assistance. I also thank Emma Ashton and Dick Shepherd from the Minister's office and a member of my own staff, Maree Prendergast, for her assistance in ensuring that all issues in the bill were addressed. The negotiation has been worthwhile both for the Government and for the Opposition. I again thank the Government and the Minister for the Environment for their assistance.

Debate adjourned on motion by Mr Beckroge.

CRIMES AMENDMENT (DIMINISHED RESPONSIBILITY) BILL

Second Reading

Mr WHELAN (Ashfield - Minister for Police) [11.56 p.m.]: I move:

That this bill be now read a second time.

This bill was introduced in the other place on 25 June and the second reading speech appears at pages 11065 to 11067 of *Hansard*. The bill is in the same form as introduced in the other place and I commend it to the House.

Debate adjourned on motion by Mr Phillips.

PUBLIC BODIES REVIEW COMMITTEE

STANDING COMMITTEE ON PUBLIC WORKS

Joint Inquiry

Motion by Mr Whelan agreed to:

That leave be given to the Public Bodies Review Committee and the Standing Committee on Public Works to sit together for the purpose of conducting a joint inquiry into issues relating to and arising from the regulation of the procurement of goods and services, competitive tendering and contracting in the New South Wales public sector.

SPECIAL ADJOURNMENT

Mr WHELAN (Ashfield - Minister for Police) [11.58 p.m.]: I move:

That this House at its rising this day do adjourn until Tuesday, 25 November 1997, at 2.15 p.m.

Mr HARTCHER (Gosford) [11.58 p.m.]: In September the Opposition was told by the Government that the program of sitting days had to be re-arranged. The program of sitting days advertised at the beginning of the year was re-arranged and two weeks of sitting time were taken out. We were told that instead there would be three weeks of sitting in November, four days each week. We are now told on Thursday afternoon that a Friday sitting day is to be cancelled. In other words, the sitting program is to be re-arranged yet again.

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That calls into question the whole approach by the Carr Government towards the administration of this Parliament. The Government has cancelled until Christmas all private members' days, all rights of private members to raise issues in the Parliament and also, by a sleight of hand, question time on Fridays.

The business paper contains more than 100 notices of motion, many moved by Government members and others moved by Opposition members. Some bills have been on the business paper for 18 months. The Government pledged that it would respect the charter of reform and would allow full and free debate. But 18 months later these bills are still on the business paper. Two weeks have been taken from the list of sitting days on which those bills could have been debated. Tomorrow's sitting, when those bills could also have been debated, has now been cancelled. Questions have been asked about why tomorrow's sitting has been cancelled. Is it so that members of the Government can go on the harbour cruise with the visiting delegation from the Tokyo Metropolitan Assembly? How many members of the Government are going on that harbour cruise?

Mr Whelan: None. The only one is Max Willis.

Mr HARTCHER: Tomorrow we will see who goes on the harbour cruise. I hope the response of the Minister was noted in *Hansard*. The Leader of the House has given an undertaking that no member of the Labor Party from the Legislative Assembly or the Legislative Council will go on the harbour cruise. Yet people are saying that the reason this debate is being curtailed tonight and the reason the House is not sitting tomorrow is so that the Minister and his colleagues can go on the cruise.

[Interruption]

Of course I went down to the gallery and told them, because it is true.

Mr Whelan: It is not true.

Mr HARTCHER: We will see tomorrow. Even more significant is the fact that two weeks have been taken off the program and a further day has now been taken off. But we have had no indication from the Leader of the House as to when we are coming back, other than that it will be next week. Is the Leader of the House prepared to tell the House when we are coming back after that?

Mr Whelan: Yes, I will, in reply.

Mr HARTCHER: Will the Leader of the Government give the House some idea of the schedule of sittings of this House and give us some idea as to when these bills can be dealt with?

Mr Whelan: I will let you know on Wednesday, but you have got hardly anyone here.

Mr HARTCHER: When the division bells ring the Government will see how many members of the Opposition are here. Something like 19 private members' bills are on the list, and they each deal with matters of great concern to the people of the State. Those bills include the Home-owners Defence Bill, which was

introduced by me to give people the right to protect themselves in their own homes. As I said, more than 100 notices of motion have to be dealt with. The Government may think that by sheer weight of numbers it can impose its will upon the Parliament. Indeed, it can do that, because at the end of the day it wins. That is the way this House has been run for the past three years.

Mr Whelan: It has been run on logic.

Mr HARTCHER: The House has run for three years on an extraordinary combination of simple expediency, curtailed debate and use of the gag. If the Leader of the House had a clear understanding of Standing Order 100 he would have made greater use of the guillotine.

Mr Whelan: There is no guillotine notice.

Mr HARTCHER: No, because the last two times the Leader of the House tried to use it he messed it up. We had to go through 22 divisions one night because the Leader of the House misapplied or misunderstood Standing Order 100. The Opposition does not support the special adjournment motion. The Government is not allowing for proper parliamentary debate. If the Parliament is to function effectively, days should be allocated so that private members' motions and bills can be debated and so that the Government can be held accountable at question time.

Mr PHILLIPS (Miranda - Deputy Leader of the Opposition) [12.04 a.m.]: The disorganisation of the Government is obvious from the program of the House. The right of members to debate over 100 motions and bills has been removed.

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Mr BECKROGE (Broken Hill) [12.05 a.m.]: I move:

That the question be now put.

The House divided.

Ayes, 46

Ms Allan	Ms Meagher
Mr Amery	Mr Mills
Mr Anderson	Mr Moss
Ms Andrews	Mr Nagle
Mr Aquilina	Mr Neilly
Mrs Beamer	Ms Nori
Mr Crittenden	Mr E. T. Page
Mr Debus	Mr Price
Mr Face	Dr Refshauge
Mr Gaudry	Mr Rogan
Mrs Grusovin	Mr Rumble
Ms Hall	Mr Scully
Mr Harrison	Mr Shedden
Ms Harrison	Mr Stewart
Mr Hunter	Mr Sullivan
Mr Iemma	Mr Tripodi
Mr Knowles	Mr Watkins
Mr Langton	Mr Whelan
Mrs Lo Po'	Mr Woods
Mr Lynch	Mr Yeadon

Mr McBride	
Mr McManus	<i>Tellers,</i>
Mr Markham	Mr Beckroge
Mr Martin	Mr Thompson

Noes, 38

Mr Beck	Mr O'Farrell
Mr Blackmore	Mr D. L. Page
Mr Brogden	Mr Peacocke
Mr Chappell	Mr Phillips
Mrs Chikarovski	Mr Richardson
Mr Cochran	Mr Rixon
Mr Cruickshank	Mr Rozzoli
Mr Debnam	Mr Schipp
Mr Downy	Mr Schultz
Mr Ellis	Ms Seaton
Ms Ficarra	Mr Small
Mr Fraser	Mr Souris
Mr Glachan	Mr Tink
Mr Hartcher	Mr J. H. Turner
Mr Hazzard	Mr R. W. Turner
Mr Humpherson	Mr Windsor
Dr Kernohan	
Mr Kinross	<i>Tellers,</i>
Mr MacCarthy	Mr Jeffery
Mr O'Doherty	Mr Kerr

Pair

Mr Gibson	Mr Collins
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Question so resolved in the affirmative.

Motion agreed to.

House adjourned at 12.20 a.m. Friday, until Tuesday, 25 November 1997, at 2.15 p.m.
