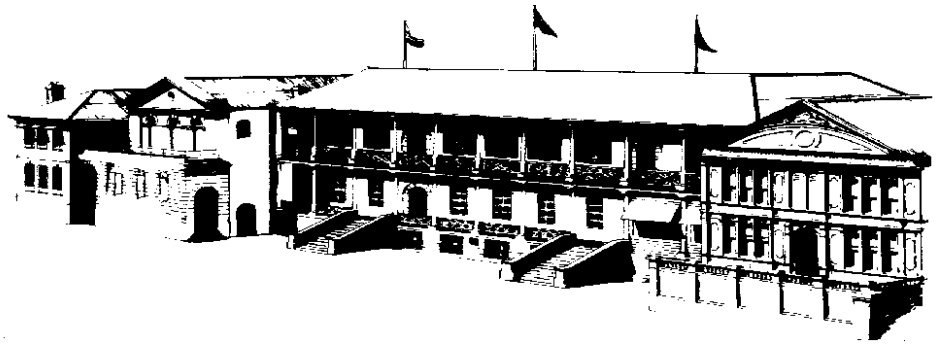
NEW SOUTH WALES



Legislative Council

PARLIAMENTARY DEBATES

(HANSARD)

FIFTY-FIRST PARLIAMENT
THIRD SESSION

OFFICIAL HANSARD

Tuesday, 5 May 1998

AUTHORISED BY
THE PARLIAMENT OF NEW SOUTH WALES

LEGISLATIVE COUNCIL

Tuesday, 5 May 1998

The President (The Hon. Max Frederick Willis) took the chair at 2.30 p.m.

The President offered the Prayers.

ASSENT TO BILL

Assent to the following bill reported:

Listening Devices Amendment (Warrants) Bill

AFFIRMATION OF ALLEGIANCE

The Hon. Carmel Tebbutt took and subscribed the affirmation of allegiance and signed the roll.

TEMPORARY CHAIRMAN OF COMMITTEES

The PRESIDENT: Pursuant to standing orders and the resolution of the House of 17 September 1997 I nominate the Hon. Janelle Saffin to act as Temporary Chairman of Committees during the remainder of the present session of the Parliament, in place of the Hon. Ann Symonds, resigned.

COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND THE POLICE INTEGRITY COMMISSION

Reports

The Clerk announced receipt of a report from the committee entitled "Second General Meeting with the Commissioner of the Police Integrity Commission", dated May 1998, forwarded pursuant to section 95(3) of the Police Integrity Act 1996.

The Clerk announced receipt of a report from the committee entitled "Sixth General Meeting with the NSW Ombudsman", dated May 1998, forwarded pursuant to section 31FA of the Ombudsman Act 1974.

CRIMES LEGISLATION AMENDMENT (POLICE AND PUBLIC SAFETY) BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [2.41 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Government is pleased to introduce the Crimes Legislation Amendment (Police and Public Safety) Bill. This bill is a landmark step in the Carr Government's commitment to a safer community. It makes important amendments to the Summary Offences Act and the Crimes Act to equip police with the laws and powers they need to make our streets safer. A number of tragic deaths in recent years have occurred as a result of attacks by people armed with knives and other dangerous implements. I hardly need remind this House of the outrage of the people of New South Wales following the deaths of Peter Savage, Constable David Carty and Constable Peter Forsyth. Nor do I need to remind the House of the grief suffered by the families of these fine young men. On the first day of this parliamentary session the Premier announced the Government's plan to help police tackle gang and knife crime. This bill implements the measures announced by the Premier.

The changes are far reaching and I acknowledge they will not be supported by all. However, the time has come for the community and this Parliament to make some fundamental decisions about the type of society we want to live in. We cannot increase the safety of the community without giving police the powers they need to maintain law and order on our streets and in public places. Two years ago we saw the tragedy of Port Arthur. This Government took the tough decisions that were needed in the aftermath of that tragedy to tackle problems with access to guns. We are doing the same now with knives. We cannot increase the safety of the community unless we tackle head-on the growing propensity of people to carry knives. This legislative package will do both these things. Let me first address the problem of knife crime in our community.

The general right of members of the public to carry a knife in a public place has always been a dilemma for governments. Knives can have a legitimate use and are often carried for innocent purposes. However, the Government believes an increasing number of people are carrying knives for improper purposes. The existing offensive implement provision in the Summary Offences Act does not make it an offence to carry a knife. It prohibits persons having an offensive implement in their custody in a public place or school. For an item to be an offensive implement it must be something which has been made or adapted for the purpose of causing injury to a person, or, it must be something intended to be used to injure a person or property. Sometimes possession of a knife in a public place by a person clearly meets this requirement because of the nature of the item or the circumstances in which it is being carried.

However, existing law does not necessarily make it an offence to be somewhere like George Street on a Saturday night with a large knife in your pocket. It all depends on the type of knife

or the ability of the police to prove some intent to use it. By introducing the measures in this bill the Government is taking the tough decisions. It is making a fundamental change in the law so it will no longer be lawful for persons to go out into a public place with a knife, any knife, unless they have a reasonable excuse. The Government's aim is to reduce crime involving knives and to reduce the number of persons who routinely go out armed with a knife. It will achieve these objectives by sending a clear message that it is not okay to go out with a knife and by increasing the likelihood that persons carrying knives will be caught.

Intelligence from operational crime reviews indicates that there has been a significant increase in the incidence of assaults and robberies involving knives over the past three years. There are also indications that young people in particular go out armed with knives more often. A report in the *Daily Telegraph* of 17 April about a young man prosecuted for carrying flick-knives illustrates the problem. According to the newspaper report he stated that "everyone carries them". Whether this is a matter of fashion, a show of bravado, a matter of cultural preference or a consequence of a misguided sense of security, the Government wants to stop it. The Government recognises that there are some circumstances in which it is reasonable for a person to have a knife in a public place. The bill makes allowance for these circumstances by including a reasonable excuse provision.

Some matters which may form a reasonable excuse, depending on the circumstances, are listed in the bill although it is not an exhaustive list. These include use of a knife for the lawful purposes of employment, for the preparation and consumption of food, for lawful recreational activities such as hunting and fishing and a number of other matters. Others may be added by regulation should the need arise. However, the bill specifically provides that carrying a knife for the purpose of self-defence is not a reasonable excuse. This is quite deliberate. We want to break the pattern of young people increasingly arming themselves with knives when they go out just in case they get into a fight. As the Premier indicated, this is a significant change. It is a turning point for the community. We are determined not to allow this State to follow the United States of America, where weapons are carried as a matter of course by millions and the law reinforces a citizen's right to do so. The message from this change is clear:

- Do not carry a knife unless you have a valid reason for doing so.

- If you carry a knife without a reasonable excuse you will be committing an offence.

This change is only part of the Government's solution to the knife problem. It is supported by provisions in the bill which will enable the police to search for and confiscate knives and other dangerous implements. The power to search will be available to police in public places and schools where they suspect on reasonable grounds that a person has a dangerous implement. The bill specifically provides that the fact that a person is in an area with a high incidence of violent crime may be taken into account by police when deciding whether to search a person. This will ensure police are able to conduct searches for knives and other dangerous implements in crime hot spots. The bill will enable police to conduct a frisk search or a search by electronic hand-held metal detector and to examine suspicious items detected. The Government recognises that being searched may be seen by some as an intrusion into their personal freedom, but it is a far less significant intrusion than being subjected to an assault or robbery by a knife-wielding thug.

A wide range of safeguards have been built into the legislation. Police will be required, prior to conducting a search, to state their name and place of duty to the person to be searched, to state their reasons for the search and to warn that failure to comply may be an offence. A person will not commit the offence of refusing to comply with a search unless, effectively, they have been twice requested to submit to a search, have been warned twice that failure may be an offence and have twice refused to comply. Persons who commit the offence of refusing to comply with a search will, of course, be liable to arrest. As I have said, the objective in relation to knives in this bill is to reduce the number of people carrying knives. Increasing the risk of detection is the most effective means of both reducing prevalence of persons carrying knives and reducing the prevalence of knife crime. Comment was sought from Dr Don Weatherburn about these amendments. He advised that:

> . . . these proposals have the potential to increase the perceived risk of apprehension for carrying a knife (and therefore reduce the incidence of knife attacks) as long as the [search powers] are frequently and visibly exercised in places and at times when knife attacks are common.

The new knife offences will carry a maximum penalty of a fine of five penalty units. Of course, where a person uses a knife to commit an offence or is carrying certain types of knives, much higher penalties will still apply. These new offences fit into what will be a comprehensive and cohesive structure of offences covering possession and use of weapons including:

- The offence created by the Government last year which prohibits visibly using or carrying a knife in a manner or place likely to cause fear, which carries a maximum penalty of two years imprisonment.

- The offence of possession of an offensive implement in a public place or school, which carries a penalty of two years imprisonment.

- The offence for possession of a prohibited weapon without a permit, which carries a maximum penalty of 14 years imprisonment.

- The offence provisions for using a weapon to commit an indictable offence or resist arrest, which carry a maximum penalty of 12 years imprisonment.

- The offence of robbery with wounding whilst armed with an offensive weapon, which carries a maximum penalty of 25 years imprisonment.

The bill will also enable police to confiscate a knife or other dangerous implement they suspect is unlawfully in the person's possession. A dangerous implement is defined by the bill to include knives, firearms, prohibited weapons and offensive implements. This will ensure that as well as being able to search for and confiscate knives police officers will be able to confiscate firearms and other weapons unlawfully in a person's possession. By including "offensive implements", a term already defined in the Act, the reach of this provision will extend to items such as sharpened screwdrivers and blood-filled syringes. Where a knife or other dangerous implement is confiscated by a police officer the person from whom it was taken or its owner will be able to apply to the relevant local area commander of police for its return. The local area commander will have a discretion to return the item and, if return is refused, an appeal against this decision may be made to the Local Court.

As an additional precaution, where a knife or other dangerous implement is confiscated from a person under the age of 18 years and return is sought, the parent or guardian must make the application. Another key provision in this bill is aimed at enabling police to control antisocial behaviour in public places. There is strong community support for amendments to the laws relating to street offences to give police clear and unambiguous powers. It is unacceptable to expect police to maintain law and order in public places without giving them the clear powers they need. At present police powers are limited and poorly articulated. Whilst there are some offence provisions covering behaviour in public, these do not directly support police giving directions to persons behaving in a manner which causes fear to other persons present.

This bill will address this situation by giving police a power to give a reasonable direction to any person or group of persons who are harassing, intimidating or obstructing another person, or whose behaviour in a public place is causing or likely to cause fear to any other person present. The power to give the direction is backed by an offence provision which will apply where a person fails to comply with the direction and continues the relevant behaviour. The key purpose of this provision is to enable police to disperse persons acting in a disruptive manner before a situation gets out of hand. The key purpose of this provision is not to lock people up. Rather, the offence provision is included to give police a clear power to give lawful directions in the prescribed circumstances. There are, of course, other offence provisions which will be used for more serious offending in public places which carry prison penalties. These include the offences of offensive behaviour, obstruction, stalking and intimidation, violent disorder, and affray.

The bill provides that a person will not commit an offence against this new section until, effectively, they have been given a direction twice and twice warned that continuation of the relevant behaviour and failure to comply may be an offence. In addition, a defence of reasonable excuse will be available. This power will not extend to situations involving industrial disputes, organised assemblies, protests or processions. Police have reported that their inability to demand the name and address of persons in public places has hampered their ability to fight serious crime. There is currently no general obligation on persons to provide their name and address to a police officer, even if they have witnessed a serious crime. The lack of power hampers efforts to break through the code of silence that members of serious criminal gangs use to ensure members do not provide information about criminal activities.

There have been instances when police have been called to the scenes of serious crimes such as stabbings and although many persons obviously witnessed the incident no person present has been willing to provide police with contact details. This prevents police following up potential witnesses when they are away from their peers and not subject to pressure to remain silent. This bill will enable a police officer to require a person to provide his name and address where the officer believes on reasonable grounds that the person will be able to assist in the investigation of an indictable offence. This provision is essentially the same as an equivalent provision in the Commonwealth Crimes Act. The Government is aware there is concern about giving police additional powers. Therefore the bill includes a number of safeguards. In addition, the bill requires the Ombudsman to monitor and scrutinise the use of all the new powers. For this purpose the Commissioner of Police is required to provide information to the Ombudsman about the exercise of the additional powers.

At the conclusion of the first year of operation of the new provisions the Ombudsman will prepare a report on its monitoring work. In addition the bill requires the Minister for Police to undertake a review of the measures introduced by the bill to determine whether the policy objectives remain valid, and whether the operation of the provisions are meeting those objectives. This review will occur after the first 12 months of operation of the provisions. The Minister for Police will report to both Houses of this Parliament about the review. This report will include a copy of the Ombudsman's report. The measures this Government has put in place to combat police corruption and abuses of power are stronger and more sophisticated than they have ever been. Any or all of those measures can be used to deal with allegations of abuses of the powers given to police by this bill.

The Government is also moving quickly to implement all the other measures announced by the Premier. A review of the Prohibited Weapons Act has commenced. The review panel is chaired by the Ministry for Police and includes representatives of the Police Service, the Cabinet Office, the Attorney General's Department and the Department of Fair Trading. Its terms of reference are to review the effectiveness of the Act, its enforcement and the types of weapons and items included in schedule 1. The Premier also announced that the Police Service would establish a working party to consider ways of improving the safety of off-duty police officers. The working party, which includes representatives of the Police Service, the Ministry for Police, the Police Association and the Commissioned Police Officers Association, has already met twice.

Its terms of reference are to consider access by off-duty police officers to weapons and protective equipment, to consider the need for additional training in defensive tactics and to consider travel to and from work by officers in uniform. In addition, work has commenced within the Police Service on educational campaigns to ensure that members of the community and members of the Police Service are fully aware of the changes this legislation will introduce. The educational campaign for police will include publication of a plain English guide to the law in the area of street offences and powers and will make extensive use of the police television network. The Government will also take the necessary steps to ensure that members of the public are fully informed of these changes to the law.

As I have indicated, this bill is a watershed in the fight against street crime. It is the first stage of the review and consolidation of police powers into a single Act announced by the Premier. All of these provisions will make a significant contribution to making New South Wales a safer place to live. The enactment of these legislative provisions cannot, of course, guarantee that no more horrific crimes involving knives are committed. It will not guarantee that the streets are free from hooligan behaviour. The whole community has a part to play in developing a safer community, but these measures will send a clear message to the community that the Government will take tough action to prevent crime and give police the powers they need. However, this bill demonstrates the Government's commitment to the safety of the people of this State. It is a clear statement about the sort of community we want this State to be—a community where ordinary people, young and old, can go out without fear of harassment or intimidation; without fear for their safety from knife-wielding thugs. I commend the bill to the House.

The Hon. M. J. GALLACHER [2.42 p.m.]: It is worthy of some recognition that this bill, which

the Government proudly proclaimed in another place as the strongest legislation of its kind anywhere in the country, is not worthy of the Attorney General. The most senior law officer in this State is not prepared to read his speech onto the record. Instead he merely wishes to incorporate it, skulk away and hope that no-one will read it. The painful truth is that no-one is likely to read anything that this Government distributes on the issue of law and order because the community recognises the Government for what it is: spineless and uncommitted. The Attorney General has no doubt included in his second reading speech phrases such as "commitment to safer streets", "criminals will be held accountable" and "a return of community confidence", but I am not surprised that the Attorney General has baulked at having to actually say those words out loud in this Chamber.

It must be terribly frustrating for the Attorney General to see the position of Chief Justice slip through his fingers while he is forced to remain here trying to sell a product that he knows has not only reached its use-by date but has whiskers growing on it. The Crimes Legislation Amendment (Police and Public Safety) Bill is a move in the right direction but it fails to take the complete journey. Maximum penalties of $550 for carrying a knife in a public place might sound tough enough when the proponents and some opponents of this bill paint a picture of a sweet, innocent young person caught with a small pocketknife without lawful excuse, but what about the habitual gang member? What about street offenders who are prepared to carry knives knowing that irrespective of how many times they are caught and fined $550 they cannot be sent to gaol?

It does not matter how many fines of $550 offenders rack up; they could be arrested 100 times. This legislation is incapable of sending them to gaol or forcing them to pay their fines. Tough legislation! No wonder the Attorney General sits in this Chamber with his head bowed. This legislation fails to deliver and can easily be manipulated. It will not be difficult for gang members and other street criminals to work out how to get around the legislation. Let me give just two examples. First, a young male is stopped outside the Hoyts cinema complex in George Street. A subsequent search reveals a knife with a blade, say, 10 centimetres long. When questioned regarding his possession of the knife the young male merely points across the road to a nearby food outlet and says, "I was only carrying the knife because I was going to buy something to eat and use it later to cut up the food."

Second, a gang member in the company of other gang members is asked by police about his possession of a knife. He says, "We were going to buy some food later on and use the knife to divide the food because we do not have enough money to buy individual meals." This legislation allows for people to carry knives to be used in conjunction with the consumption of food. With regard to the two examples I have just outlined, the persons stopped by police would most certainly have their knives confiscated but they would not be charged with any offence under this legislation, and they would not have to supply their particulars to police. In another example, a motorcycle gang member decides to wear a sheathed, 30-centimetre hunting knife on his belt whilst out riding his motorcycle. When stopped by police and asked what he is doing with the knife he says, "I am on my way to do a spot of fishing", before removing a handline from a pannier on the side of his motorcycle.

Are police able to charge him under this legislation? No, they can take no action whatsoever. Are they able to take the knife away from him? Possibly, but in most circumstances the knife will be returned. If the person meets the criteria set out in the legislation, if he says that he has a lawful, reasonable excuse for carrying the knife—for example, "I am going across the road to cut up some food", or "I am going fishing"—the knife cannot be confiscated. If the knife is confiscated it must be returned within a very short period of time. This legislation fails to deliver. The promises that were made by the Government are merely a sham. The Government takes great delight in saying that it is the first government in Australia to address the problem, that it is the strongest New South Wales government in recent history to address this problem, and that this is strong legislation. It should sit back and take a good look at this legislation and it will see how easy it will be for people to get around it.

The other important point with respect to the question of knives is the much-discussed penalty provision. It is the view of the Opposition, and I will put it later in Committee, that the penalties provided for in this legislation are simply inadequate. I know that the Attorney General, like all good lefties, will argue tooth and nail that the Opposition is interested only in ensuring that young people who carry knives, irrespective of the circumstances, are thrown straight into gaol: no mercy, in they go. He knows that that is not the case. The Opposition is keen to pursue legislation in this area that provides an opportunity for the

circumstances of a first offender to be considered with a view to fines or community service, or that allows a magistrate to employ his discretionary power in respect of the imposition of a bond.

At the same time the coalition is committed to the view that those who reoffend or have extensive criminal histories with entries for acts of violence should not be afforded such lenient sentences; they should be afforded strong penalty options. The bill fails to deliver on that aspect. On the question of search powers as outlined in the bill, the Opposition supports the main thrust of what is to be achieved but, once again, the left-wing influence has weighed heavily on the Attorney General. In particular those who have drafted this bill know that they have secretly placed what I will refer to as acquittal triggers in the wording of the legislation. The so-called experts in the police ministry must have been watching too many cops and robbers programs to have come up with this method of conducting a search of a suspect.

Proposed new section 28A(1)(b) provides that the search will be conducted by quickly running the hands over the person's outer garments. That flies in the face of police procedure. Police officers are taught that when searching a person's outer clothing they should grab the clothing, not quickly run their hands over it. That is something I learned and practised when I was a detective in the New South Wales Police Service. A blade concealed beneath the clothing would not be detected by police officers running their hands over the exterior of the clothing; the clothing must be grabbed and squeezed in the hands.

Under this legislation, if a police officer said in court, "I did more than the legislation allows me to do and I located the knife in the person's clothing," that officer would have breached the legislation and the evidence would be thrown out of court. Again this Government has failed the New South Wales Police Service. Despite all the rhetoric that the Government is prepared to get tough on crime, it has included in the bill all these acquittal triggers, knowing that lawyers will find a window of opportunity to get their guilty clients out of court.

When does the Attorney General expect the electronic metal detection equipment referred to in the bill to be issued to members of the Police Service? The Government knows it cannot get its act together in regard to firearms or body armour. Honourable members will recall that prior to the 1995 election the shadow minister for police promised that body armour would be available to every member of the police force. Four years down the track, police are still not suitably protected. It is all rhetoric. Electronic metal detection equipment falls into the same category. Where does the Government expect the money for metal detectors to come from? Will it take the money from the police budget? Will it strip more police from the streets of New South Wales to make metal detectors available? If the legislation gave police the right to conduct a thorough search of offenders there would be no need for metal detection equipment, because they would be able to detect objects with their hands.

Who will be taught how to use metal detectors? There is more to the process than simply running them over a person's clothing. If the Hon. P. T. Primrose kept quiet he might learn a little, instead of talking rubbish day in and day out in western Sydney. Where does the Government expect the metal detectors to come from? It is not prepared to buy the necessary equipment. And how would police carry them when walking up and down George Street, for example? I am sure the Hon. P. T. Primrose, with his highly sensitive imagination, can visualise police officers walking down George Street with their new Glock pistols, with 16 or 17 rounds and speed loaders for extra fire power, hanging off one side of their belts; and their batons, mace spray and handcuffs on the other side. Now the Government wants to give them big metal detectors to hang off their belts. Not too many police officers will be thrilled about that.

Offenders will have no trouble running away from police; police will be weighed down, not only with the paperwork the Government imposes on them but also with equipment. Police want proper legislation, not more equipment to further tie them down. It all sounds fine in theory. The Government wants to placate the Tim Andersons of the world and the left-wing groupies who, over their cappuccinos, stir up trouble about police legislation. This legislation is not tough enough, and it has failed again; it is impractical.

This bill also fails to recognise incidents in which a police officer suspects that a person may be armed with a knife and may be willing to use it to avoid arrest. These situations arise infrequently, but infrequently is far too often. In such circumstances police officers must take swift action without warning. Under this legislation, before a search can be conducted police officers must identify themselves as police and must inform the person that they wish to search him for a knife. The legislation does not allow a police officer to act swiftly and without warning when he suspects that a person may use the knife to avoid arrest. What

protection will police officers have to ensure that any evidence obtained as a result of such a search will be admissible? What protection will they have from disciplinary or civil action if they do not satisfy the requirements of proposed section 28A(4)?

It is important that the Attorney General is aware of this problem. Police officers cannot always identify themselves or state their intention to search a person if they believe that person will use a knife to avoid arrest. Frequently situations arise in which police officers must confiscate a knife as quickly as possible before any discussions take place. In that event it is important that the legislation should protect not only the police officers but also the admissibility of the evidence. I do not have any problems with the confiscation powers set out in the bill, because swift and decisive action can often be the catalyst for defusing a difficult situation. I expect that the confiscation powers will be used by the Police Service in a manner that will result in the removal of as many knives as possible and that will defuse situations that could result in serious injury.

I can see a problem with the terminology of proposed section 28B of the legislation, which provides that a police officer may take possession of any thing that the police officer believes is a dangerous implement. Apart from the inclusion of knives in the definition of "dangerous implement", police already have the power to confiscate. Proposed section 28B(1)(a) is intriguing. The reference in the legislation to an officer having power to take possession of any thing is open to interpretation and could be subject to further scrutiny in a court of law. Something is either a dangerous implement or it is not, and the use of the words "any thing" is misleading.

The Attorney General would know that truck screwdrivers are generally longer than 75 centimetres. If such a screwdriver had a sharpened turning edge, would it constitute a "thing" under this legislation, and thereby be capable of confiscation? Would it fail to meet the criteria of a dangerous implement? Could it be confiscated? The section of the proposed legislation which deals with the power to give directions, like the remainder of the legislation, is intended to make people at home feel warm and fuzzy inside, but so far as this Government's commitment to fighting crime is concerned it is little more than a tease. The key to the provision is subsection 7, which provides that a person is not guilty of an offence unless it can be proved that he persisted to engage in the relevant conduct after the direction was given. What will police do with offenders who discontinue harassing or intimidatory behaviour or immediately stop the conduct that has caused another person to fear them but who refuse to leave the location?

The bill allows police to take action only when the suspected person fails to obey the direction to stop the unlawful conduct, but it does not provide that suspected persons must in every circumstance leave the location. What about the vagrants who sit along the footpaths with handwritten signs asking for help, or street buskers, or comics whose stage is a street corner somewhere in the Sydney central business district? What about the individuals who collect money for various charities? These people stand on the footpath in such a way that others must walk around them to avoid them. Will this legislation be used against them? If not, what criteria will the Government set to enable police to determine which persons are allowed to stand on the footpath in the way of passing pedestrians and those who are not?

The coalition Opposition is concerned about the way the legislation will clearly give an advantage to those involved in industrial disputes, and will raise that issue further in Committee. The Opposition is of the view that the bill as it currently stands should not contain a discriminatory provision that puts an unfair advantage in the hands of those involved in industrial disputes. Young people on the streets may well be discriminated against in favour of people involved in industrial disputation. I have real concerns about the Government's commitment to solving this problem, given that the maximum penalty provided for failing to obey a lawful direction is a mere $200 fine. If the Government were serious in its intentions, it should have considered the implications of such a paltry fine for police initiating an arrest.

If a police officer arrests a person who has not obeyed a police officer's direction and takes that person to the nearest police station, under the proposed legislation the officer's processing of the offender, from the time of the arrest until the paperwork is completed, could take from two to three hours, all for a maximum $200 fine. Once again I am amazed that the Government has the temerity to tell the community it is getting tough on street crime. The same comment can be made about the power to demand name and address.

I have been to crime scenes at which possible witnesses have refused to supply their names and addresses. The Government has touted proposed new section 563 as a cure-all for the problem. One could be easily convinced from a reading of the provision that that is the case, until one reads the maximum penalty—$200. I know the Attorney General agrees

with me that he finds himself in an extremely embarrassing situation in having to sell such a lame duck piece of legislation. Honourable members can see it now: a street in Sydney; a body lying in the gutter with a knife sticking out of its back; standing around the body are numerous members of the 5T gang; all of a sudden a police car drives up. Can honourable members imagine the fear that would go through the minds of the gang members knowing that if they did not give the police their names and addresses, or at least a name and address—it does not have to be theirs—they would be fined $200? Gang members will be so frightened when this situation arises in the future!

But how would police positively identify offenders at a crime scene? Many young people with whom I have come in contact in the past do not carry any form of identification. A police officer has to accept the name and address they supply. If a police officer has no other means by which to refuse or accept their identification he is met with a very difficult situation: he must make an arrest or let them go. Proposed new section 563 carries a fine that would be regarded as lightweight by the criminal element. Also, police would see little value in taking a person on the street who failed to give a name and address to the police station, and proceeding with fingerprinting, photographing, and charging—an expensive exercise that would take two to three hours—all for a $200 fine. Is it any wonder that the Attorney General did not want to read his speech? It is a shame that some members of the Government in another place elected instead to speak. Take, for example, the comments by the Hon. Paul Whelan that this legislation will for the first time provide police with power to search for prohibited weapons, including flick-knives.

It is a shame that the Hon. Paul Whelan, a solicitor, did not know about section 357E of the Crimes Act, which gives power to stop, search and detain. Perhaps Mr Whelan should stick to the Liquor Act and offering first aid courses to his patrons. He should leave application of the Crimes Act to those who know more about the job—members of the New South Wales Police Service. Mr Whelan went on to mention that the application of this legislation will be monitored by the Ombudsman. What will be achieved through the Ombudsman administering or monitoring a piece of legislation that she can monitor only after the making of a complaint? Perhaps it would have been more prudent for the Government to have put together a working party involving Irene Moss's office, the New South Wales Office of the Ombudsman, working in conjunction with members of the New South Wales Police Service. It is unlikely that the service will make costly modifications to the COPS system to ensure that Irene Moss has statistics readily available at her beck and call. It would have been far easier to put together a working party made up of members of both the Office of the Ombudsman and the New South Wales Police Service to study the implications.

Then came the traditional sterling contribution to this debate by the honourable member for Wyong. He spoke about an incident at Budgewoi on 21 March in which about 300 young people began acting in an unruly manner, thereby necessitating attendance at the scene of all available police resources from Tuggerah Lakes local area command. He suggested that if this legislation had been in place before that date police might have been able to take action against such a large group and thereby be quickly freed to attend to other matters in the Toukley patrol, including the investigation of the smashing of the front window to his office.

On the night of that incident a maximum of probably six cars were available for police officers from the Tuggerah Lakes command to attend the scene, each car containing two police officers—to handle a crowd of 600! The honourable member for Wyong is pulling a longbow if he expects 600 young people to be dealt with by a total of about 12 police. I absolutely love it when pen-pushing former public servants start talking in this place about how the police will act. The truth is that many of the young people involved in the Budgewoi incident were affected by alcohol and many were under-age. If the police had commenced to effect arrests pursuant to this legislation, with the limited resources police have been given by this Government on the central coast, I suggest they would still be filing paperwork on the arrests and no-one would have been in a position up to this date to inspect poor Mr Crittenden's broken window. One can imagine the two young fellows who broke the window of Mr Crittenden's office looking in and deciding that there was nothing worth stealing or, perhaps more likely, having a look and deciding to forget it because nothing in the office worked.

I am incapable of ignoring the erudite presentation made by the honourable member for Gladesville. The most striking thing about his contribution was his open display of confidence in the legislation. Most Government members refer to the bill in the terms, "It will work, this will get the results." Mr Watkins, on the other hand, on a number of occasions expressed his hope that the bill would work. I lost count of the number of times he expressed that hope. What a display of confidence in the bill. For example, Mr Watkins stated that he hoped the result of the legislation would be that

those who are causing problems are warned off. What strong stuff! Similarly, the honourable member said that this legislation should not worry law-abiding people. What did he mean by that? Will the legislation worry them, or will it not worry them? The honourable member for Gladesville is having a bet each way. He owes it to the Parliament to raise his concerns.

The honourable member for Gladesville talked about the fear that many in our community have of becoming the victims of crime. One of the difficulties police have in areas such as Gladesville is in identifying potential victims of crime and preventing them from becoming victims. I worked as a detective in the Gladesville area and I know of the crime problems there. Mr Watkins made it so much easier for the police by identifying those who experience real fear. According to him, they are the people who use public places such as parks, bus stops and areas outside shopping centres. This is very alarming, because I would suggest that virtually every person in his electorate uses public places such as parks, bus stops and areas outside shopping centres. The honourable member for Gladesville said that Sydney had a problem and he expressed his hope that this bill would fix it. Obviously, he is not aware that the legislation will apply statewide and not just to Sydney—that is why this place is called the New South Wales Parliament.

The Premier once said that the Government is going to get tough on crime and the causes of crime. The Opposition has demonstrated that the Government has gone back on its word time and time again. There is need for a two-pronged approach in addressing the problems of crime. We are all committed to preventing crimes, but it appears that only the Opposition is prepared to punish those who commit threatening acts or intimidate citizens in our community. In support of that statement I cannot go past the words of the honourable member for Gladesville, who in this debate in the other Chamber last week said, "The fines provided for in the bill are reasonable, particularly because they are designed to prevent offences rather than punish offenders."

Debate adjourned on motion by the Hon. Dorothy Isaksen.

BUILDING AND CONSTRUCTION INDUSTRY LONG SERVICE PAYMENTS AMENDMENT BILL

Second Reading

Debate resumed from 29 April.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [3.14 p.m.]: The coalition will oppose this bill. The Government has a hide to come before the Parliament with this bill, which seeks to extract from the building industry a further levy for long service leave payments. Over the past three years the Government has sought to rip $180 million out of the corporation administering long service leave payments. There is no doubt of the need for a corporation or of the need for a legislative mechanism to secure a levy providing money into a fund that would meet the needs of workers in the building industry. Workers in the building industry move around within the industry. Through their work they accumulate an entitlement to long service leave payments. There is therefore a need for a mechanism to provide for the accumulation of moneys so that workers get their entitlements. The moneys paid into the fund should be regarded as the workers' entitlements—it should be regarded as money that belongs to the employees or as money held on trust for the employees.

One of the Treasurer's first acts when this Government took office was to rip $60 million from the fund. The building industry was outraged about that and steps were taken to determine whether the moneys were trust funds and whether the Treasurer could be prevented from effectively appropriating moneys held in trust for building workers. The Treasurer, after obtaining further legal advice, informed everyone of an obscure provision in one of his Acts that enabled him to serve notice on the corporation and appropriate the moneys to consolidated revenue, so that he could use the moneys that belonged to building workers to shore up this Government's budget. Having got away with ripping off $60 million, the Treasurer decided to rip out the rest of the moneys that belonged to the building workers. The Government now realises that the fund is in need of some moneys and comes before the Parliament with this bill, which is designed to provide a mechanism to extract more money out of the building industry to bolster the fund so that payments can be made from the fund for the benefit of the workers.

The Government seems to think that the Parliament should sit idly by and accept that the Government, having used an obscure provision of Treasury legislation to rip $180 million out of the fund—$180 million that belonged to building workers—should be able to impose new, broader levies on the building industry to fill the black hole the Government created. The Opposition will not sit idly back and accept that. Opposition members will oppose this bill and will make certain that all honourable members are made accountable for the position they take on this legislation. The Government has a hide asking that the legislation be broadened in order that it can try to rip more moneys from the building industry to bolster the fund if it does not at the same time introduce

legislation designed to prohibit the Treasurer from again ripping moneys out of the fund.

I should have expected the Government, having ripped $180 million from the building workers fund, to be prepared to state that if it built up the fund it would not allow the Treasurer to serve a notice on the corporation and again take moneys from the fund. Why is the Government not prepared to do that? The Government has decided that it is important to reconstitute the corporation, widen the corporation's powers, take more moneys out of the fund and still leave the Treasurer the opportunity to again rip moneys out of the fund. That is not fair and the Opposition will, by calling for a division on the bill, make honourable members accountable for their position. I point out to the House that the Government, having decided to try to obtain extra moneys and to broaden the base for getting the moneys, has also decided that it wants the moneys earlier. The Government has decided that it is not sufficient to get moneys when a building approval is issued; it wants the moneys when the development approval is granted.

Many people in the building industry have received a development approval but having analysed the conditions imposed have decided not to go ahead with it. Under the bill local councils are prohibited from granting development consent until money is paid into the fund. During the last three years the Government has ripped $180 million out of the fund. From now on the Government will not only take more from the industry but will make certain that the industry pays even more money into the fund before a development is considered for approval, and that approval may not even be granted.

For example, it took nearly 18 months for my next door neighbour to have a building approval granted. The Government says that when an application for building approval is lodged the levy has to be paid upfront even though it might take years before consent is granted. That will cost the building industry millions of dollars a year and the cost may be passed on to builders of houses. The Government, having ripped $180 from workers funds, is quite content to add hundreds if not thousands of dollars to the cost of a home. The Government wants to rebuild the fund and have power to rip more from it—if the Treasurer decides he needs more money to keep his budget going.

The Opposition will ensure that honourable members of this House make the Government account for the police direction it wants to take. The Government has decided to adopt a dual standard: to take money from the private building industry but to apply a different standard to Government projects. The Government is not required to make a contribution to the long service leave payments scheme at the time approval is granted for its projects. There is one rule for the public and a different rule for the Government. The Government wants to rip money out of the private building industry and make certain that the levy is paid before development consent is granted, but it shirks that obligation with its own projects.

Approvals for government projects will be granted but the Government will not pay the levy when tenders are let. The builder will pay the levy, which may or may not be passed on in the contract price. That dual standard has been adopted by the Government. The coalition does not accept that is a fair way to assist these funds. If the Government wants more money in the building industry long service payments funds it should pay the $180 million which it ripped out of workers funds by using obscure legislative provisions.

In 1993, when I was the industrial relations Minister, I acknowledged a large surplus in the funds. On the advice I was given, the funds had enough money to obviate the need for further levies being imposed on the building industry for up to 20 years. Sitting in that account was 20 years worth of surplus funds belonging to the workers. The coalition Government, by ceasing to impose a levy, was able to reduce the cost of building a home or any other building. Within three years the Labor Government has raped and pillaged that fund in order to sustain its budget.

The Government says that having taken that money it wants more. But what happens to the money if a builder decides not to go ahead with the development? Consent enabling building erection lasts several years but the legislation does not provide for refund of that money. If a building application is found to be not appropriate and another application is lodged, a further round of fees will have to be paid.

This Government is interested only in getting its hands on money. During the last three years it has robbed the building workers. Having done that it has decided that the scheme will be broadened and the Government will get more money earlier and also make it harder for builders to get any of the moneys back if there have been inappropriate payments. The greedy, malicious Treasurer will not stop ripping out moneys if another black hole from which he can get some money is found. The Government must wear that approach and if the

members of the crossbenches are happy with that principle then they should support the Government.

The coalition does not think this legislation is fair on the building industry or on the ordinary person in the street who has to pay for a home. The House is engaged in heated debate about land tax imposed by the Government on people living in their own home. This levy is another secret tax on home owners of this State. The coalition will not sit back and let the Government impose another secret tax. The Government should not have the opportunity of ramming this legislation through the Parliament. The crossbenchers ought to have more time to consider and deliberate on the bill.

Debate adjourned on motion by the Hon. J. P. Hannaford.

GUARDIANSHIP AMENDMENT BILL

Second Reading

Debate resumed from 5 May.

The Hon. I. COHEN [3.28 p.m.]: The Greens will not oppose this bill, which has had a chequered history. Last year in May, during the autumn parliamentary session, a Guardianship Amendment Bill was introduced into Parliament by the Government. At that time the Greens were, and still are, concerned about the provision in the bill which dealt with clinical trials on persons unable to give consent to participation in such trials. The Opposition moved a number of amendments designed to excise the provisions relating to clinical trials.

The Opposition also moved a motion to have the bill looked at by the Standing Committee on Social Issues so that the provision enabling clinical trials for those unable to give consent could be investigated thoroughly. The Standing Committee on Social Issues inquired into the appropriate list of clauses deleted in the Legislative Council and into the requirement that "particular reference should be paid to the adequacy of safeguards for people unable to consent for themselves gaining access to new treatments available only through clinical trials". The committee reported by September 1997 and in its report made 20 recommendations. The committee recommended that:

> The Guardianship Act provide for the conduct of clinical trials through the reintroduction of the clinical trial provisions in the Guardianship Amendment Bill, with additional amendments as recommended.

The report further stated:

> The Committee considers that people with decision-making disabilities should not be denied an opportunity to participate in a trial that may alleviate or even cure their condition. At the same time, legislation which aims to enhance access to clinical trials must also protect the rights and welfare of people who are unable to consent to their own treatment.

One of the most controversial aspects of the 1997 bill was the delegation of consent to clinical trials to the "person responsible", instead of the consent being given by the tribunal, as proposed by new section 45AB. At chapter 5, page 58, the report dealt with this issue as follows:

> Opposition to this aspect of section 45AB was based on two grounds. Firstly, it was argued that the Tribunal should consider the individual circumstances of **every** case and therefore should not be able to give "blanket" approval for a trial. Secondly, that "persons responsible" are not well equipped to decide whether it is in a person's best interests to participate in a clinical trial.

People with Disabilities and the Council for Intellectual Disability argued in their submission that it is unacceptable for the tribunal to give blanket approval for a trial, because there is a range of individual variables that may determine the appropriateness or otherwise of an individual's participation. Their submission to the committee stated:

> By allowing blanket approval of clinical trials and the delegation of consent, the Tribunal is abrogating its responsibility, embodied in the general principles contained in s4 of the Guardianship Act, to give paramount consideration to the ***individual*** needs and circumstances of persons with a disability.

The Disability Council of New South Wales argued that while the tribunal should consult the "person responsible" or family members before it allows an individual to participate in a trial, this decision should not be delegated to the "person responsible". The report stated:

> The Council's opposition stems from a lack of confidence in the ability of the person responsible to make an objective and informed decision about participation in a clinical trial. They argue that persons responsible may not be in a position to comprehend the experimental nature of a drug trial, its ethical aspects and the potential benefits and side effects of the trial drug. They may also be more easily swayed by doctors' persuasive arguments.

The council agreed that consent for clinical trials must always rest with the tribunal. The Intellectual Disability Rights Service submission stated:

> Certainly the "person responsible" already has substitute decision-making powers in relation to most forms of everyday medical and dental treatment. But the point is surely that clinical trials are rarely concerned with commonplace medical interventions; by their very nature they are likely to involve innovative procedures and notwithstanding the general

> safeguards . . . laypersons will inevitably struggle with the responsibility vested in them by the Tribunal and there is a risk they will blindly accept the Tribunal's "seal of approval" for the clinical trial without proper regards for the **individual circumstances** of the person in their care.

The Intellectual Disability Rights Service submitted that budget constraints might be the impetus behind this amendment. Its submission stated:

> The only obvious reason for the inclusion of this provision is as a cost-cutting measure to reduce the number of sittings of the Tribunal.

The Greens share the concerns raised by People with Disabilities, the Council for Intellectual Disabilities, the Disability Council of New South Wales and the Intellectual Disability Rights Service. The word "delegate" has been removed from the bill, and proposed section 45AB states:

> (a) that the function of giving or withholding consent for the carrying out of medical or dental treatment on patients in the course of the trial is to be exercised by the persons responsible for the patients.

The same responsibilities appear to be conferred on the "persons responsible" as in the former bill, except that the provision is framed in slightly different language. It seems that the concerns raised by the Intellectual Disability Rights Service, the Council for Intellectual Disability, People with Disabilities and the Disability Council of New South Wales have not been addressed by the bill. Another provision in the bill which concerns the Greens is new section 45AA(2)(b), which provides that the tribunal may give an approval only if it is satisfied that:

> the trial will not involve any known substantial risk to the patients (or if there are existing treatments for the condition concerned, will not involve material risks greater than the risks associated with those treatments).

Given that the legislation is concerned with clinical trials and that the very nature of a trial involves elements of uncertainty and risk, the Greens ask how is it possible to know beforehand that the trial may or may not involve substantial risk. Presumably, if substantial risk were involved, the clinical trial would not proceed. The Greens understand that the whole purpose of a trial is to find out if there is a risk, as well as discovering the benefits or negative impacts of the drug or technique.

The Hon. Dr B. P. V. Pezzutti: That is a non sequitur: it does not follow.

The Hon. I. COHEN: The honourable member will have an opportunity to discuss that matter. The Greens consider this safeguard to be a farce. The Greens hope that the bill provides adequate safeguards for individuals who cannot give consent to clinical trials and that they are not subjected to inhumane clinical trials. The Greens will look closely at the history of clinical trials if and when the bill is passed. If there is any abuse—and there is potential for abuse—the Greens will call long and loud for changes. This is a delicate subject, and as a layperson I do not pretend to have definitive knowledge of it. I have listened to the Government's advisers about the benefits of the trials and where responsibilities lie, and will closely scrutinise future trials to make sure they are undertaken in a proper, beneficial and humane manner for the people involved.

The Hon. FRANCA ARENA [3.36 p.m.]: I express my deep concerns and those brought to me by the Medical Consumers Association of New South Wales, individuals, and other community groups about this bill. I flag that at the end of my speech I will move to defer the legislation. Parliament should address these deep concerns before it passes this legislation. During the 1¼ hours it took me to drive into town this morning through the heavy rain I listened to the Alan Jones radio program. People from the Carers of Protected Persons Action Group, who have written to me, rang him to express their deep concerns.

As the community has raised such concerns, Parliament should take notice. Members of the Standing Committee on Social Issues, who represent a broad spectrum of politics, produced a unanimous report, and I am sure they did their homework carefully. However, I am concerned about the bill. I served on the committee from 1988 to 1995 and during that time it produced many reports. To my knowledge, report No. 13 of the Standing Committee on Social Issues is the first to be attacked by community groups and individuals, and that should be of concern to members of Parliament. This morning I received a letter from the Medical Consumers Association of New South Wales, dated 4 May, which stated:

> Report No. 13 of the Standing Committee on Social Issue was clearly seen as being an insult, both by the many individuals who made personal submissions, because their lives had been blighted by enforced contact with guardianship, and their community groups who also made submissions. Report No. 13 was seen as part of a steamroller process by which parliament was delivering according to the demands of the medical industry. That industry being at risk of losing grants and opportunities for self-aggrandisement via publishing research papers if access to the bodies of protected people was blocked for any longer. Under such pressures normal logic and reason were suspended in debate and MCA of NSW was attacked by means of misrepresentation in speeches reported in Hansard.

> Having thus verbally destroyed "the enemy" the "debate" on 1 April in the Legislative Council about the quality of Report No. 13 reduced to a mutual congratulation session that was worthy of Saddam Hussein's Iraq. Not a dissenting voice was to be heard.
>
> Thus a de facto one party state now existing on this issue, we ask you to consider taking up the role of an opposition with others independent of the major party whips, in order to represent in debate both the voice of reason and that of the medical services consuming public of NSW.
>
> Yours sincerely
>
> Andrew Allan, Secretary MCA of NSW

They sent a lot of material, so I have only had the opportunity to read it quickly. I am concerned that such important groups should feel this way about Parliament and such an important report. I also received a votergram from Helen Ferns of Lindfield, Graham Bayley and Janet Elmes which stated:

> We, the undersigned, strongly oppose the Guardianship Amendment Bill.
>
> Will you vote against this amending legislation or alternatively, will you move to defer debate?

The Carers of Protected Persons Action group—COPPA—faxed a letter dated 17 November. Unfortunately, that was a difficult time for me and I must be excused for not taking much notice of the matter at that time. The group wrote:

> Dear Mrs Arena,
>
> This is formally to ask you to put a motion to the NSW Legislative Council for a **'Conscience Vote'** instead of a 'Party Line Vote' on the above Bill when it comes before the House.
>
> The reason for this is that we see this Bill in the same category as previous parliamentary Bills on **Euthanasia and Abortion** in that **the Clinical Trials Bill** involves the using of peoples personal bodies. Even worse in the case of the Guardianship Amendment Bill—**without the subjects consent to medical and surgical procedures** and with the possibility of **the family objection being overridden by the Guardianship Tribunal.**

I have grave concerns about the whole matter, and perhaps I should have followed the issue more closely at the time. The Citizens Commission on Human Rights sent me a paper that arrived only a few hours ago. I read it quickly, but I do not believe I have been able to absorb all of its contents. On page 11 of the paper the commission stated:

> It is very easy for the drug company to arrange appropriate clinical trials by approaching a sympathetic clinician to produce the desired results that would assist the intended application of the drug. The incentive for clinical investigators to fabricate data is enormous. **As much as $1,000 per subject is paid by American companies, which enables some doctors to earn up to $1 million a year from drug research**, and investigating clinicians know all too well that if they don't produce the desired data, the loss of future work is inevitable.

[*Interruption*]

The Hon. Dr B. P. V. Pezzutti interjected that this was really too much.

The Hon. Dr B. P. V. Pezzutti: Who is it from?

The Hon. FRANCA ARENA: The Citizens Commission on Human Rights. It is important to remember that about 20 to 30 years ago professors, doctors and other eminent professionals said on television and in the media that tobacco was an absolutely harmless drug and people could smoke it without any concern. Of course, we later learned that some of these doctors were paid by tobacco companies. This happened all the time. Unfortunately, although the majority of doctors are ethical and wonderful, some are unethical and would say anything as long as they receive the right amount of money. Many people have expressed concern about this legislation not only to me but also to other honourable members. COPPA asked that I make a conscience vote. At the moment a conscience vote is a wonderful luxury in which I can afford to indulge on many bills. Unfortunately, party members are unable to make a conscience vote. Although in the party room they may say whether they agree or disagree with legislation, in the final analysis they all must do as they are told and toe the line if they want to remain in the party.

The Hon. Dr B. P. V. Pezzutti: That is not true.

The Hon. FRANCA ARENA: It is absolutely true, and especially so in the Labor Party. If a member of the ALP votes against the party, he or she is counselled at best and thrown out at worst. Journalist Alex Mitchell said I was expelled from the Labor Party. I was not expelled; I resigned voluntarily. I express my deep concern about this bill, and I move:

> That this debate be now adjourned until Tuesday, 19 May 1998.

The House divided.

Ayes, 4

Mrs Arena
Rev. Nile
Tellers,
Mr Corbett
Mrs Nile

Noes, 37

Mr Bull	Mr Lynn
Dr Burgmann	Mr Macdonald
Ms Burnswoods	Mr Manson
Mrs Chadwick	Mr Moppett
Mr Cohen	Mr Obeid
Mr Dyer	Dr Pezzutti
Mr Egan	Mr Primrose
Mrs Forsythe	Mr Ryan
Mr Gallacher	Ms Saffin
Miss Gardiner	Mr Samios
Mr Gay	Mrs Sham-Ho
Dr Goldsmith	Mr Shaw
Mr Hannaford	Mr Rowland Smith
Mr Johnson	Ms Tebbutt
Mr Jones	Mr Tingle
Mr Kaldis	Mr Vaughan
Mr Kelly	*Tellers,*
Mr Kersten	Mrs Isaksen
Ms Kirkby	Mr Jobling

Question so resolved in the negative.

Motion for adjournment negatived.

The Hon. Dr MARLENE GOLDSMITH [3.54 p.m.]: In expressing my qualified support for the Guardianship Amendment Bill I speak as a member of the Standing Committee on Social Issues, which unanimously recommended that individuals who lack the capacity to consent to their own medical and dental treatment should be allowed to participate in clinical trials. Interestingly, when the social issues committee commenced its inquiry a number of members expected that the reference might prove extremely controversial and we would produce a divided report. As it happened, the inquiry process was overwhelmingly pointed in one direction: as per the recommendations in the report.

People who are not in a position to make decisions for themselves need to have access to clinical trials, for a very good reason: to be able, like others, to access the latest treatment. Such treatment may be necessary for their illness but, for example, the drugs involved might not have completed the lengthy process necessary before their use is approved in Australia. Sometimes treatment may be accessible only through clinical trials, and such trials have to be approved by a medical research and ethics committee or by the National Health and Medical Research Council. Moreover, the trials that we are considering in this legislation are therapeutic only; that is, trials that are intended for the benefit of those participating as subjects.

Hitherto the situation has been that people who were unable to make decisions for themselves were unable to gain access to trials and, therefore, to much-needed treatment. That was clearly unfair and that was the impetus for the original legislation. During the course of the committee's inquiry the evidence overwhelmingly supported the view that those subject to guardianship orders should be given access to trials. There is a concern that some people who cannot make decisions for themselves will be given a placebo rather than the intended drug. That is a very real concern, but that would also apply to people who are not subject to guardianship orders. In the course of any clinical trial some people are given a placebo. If in a clinical trial there is strong evidence that the drug in question is very beneficial, the trial is cancelled early to allow those who have been on the placebo to access the drug. Honourable members will be aware that that occurred recently in respect of a major study into breast cancer.

One of the concerns I heard expressed on radio this morning was that even if families of people who are subject to guardianship orders are hostile to the family member having access to treatment, their wishes will be ignored. During its inquiry the Standing Committee on Social Issues was informed by medical authorities that there are plenty of people available for such trials and they do not need people whose families are hostile to their participating in a trial. Consequently, the committee was reassured repeatedly that people would be accepted for such trials only if their family were supportive of their participation. Honourable members should remember that all such trials have to pass the very stringent approval process of modern ethics committees and legal constraints on research. We have come a very long way since the horror stories that we have all read about in the media: for example of children in Victorian era orphanages being used as guinea pigs.

Those sorts of things could not happen today; they could not happen to people subject to guardianship orders for the simple reason that the law has changed because of the horror stories of the past. However, given all of that and the fact that I support the bill as it contains provisions that the Standing Committee on Social Issues examined and unanimously recommended be adopted, there are some concerns and qualifications I should like to place on the record. The first relates to a matter mentioned already in this debate by the Hon. Elisabeth Kirkby: a letter received by the committee by way of facsimile transmission very late on 7 April from the Christian Science Committee on Publication. My concern is for the first sentence of that letter, which states:

> This office only became aware of the above standing committee report during the last week.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

TOTALIZATOR AGENCY BOARD PRIVATISATION

The Hon. J. P. HANNAFORD: My question without notice is directed to the Treasurer. Is it a fact that the TAB prospectus does not divulge the details of the asset backing of the shares? Will the Treasurer provide details of the asset backing to assist a reasonable person to make a decision about the purchase of those shares?

The Hon. M. R. EGAN: I will take advice on the question. I was asked a similar question at the press conference for the launch of the share offer document this morning. Oddly, I recall the question was asked by someone from the National Farmers Federation. The Government was advised that asset backing amounts to about $1 a share but, as Mr Pemberton pointed out, the worth of an organisation depends largely on such considerations as its profits, not just its asset backing.

JUVENILE JUSTICE

The Hon. J. KALDIS: Will the Attorney General inform the House of the findings of the latest Judicial Commission report on juvenile offenders?

The Hon. J. W. SHAW: In 1993 a green paper was issued identifying matters of concern with regard to the future direction of juvenile justice. It recommended that the Judicial Commission should examine alleged inconsistencies in the sentencing of juvenile offenders, giving special attention to the sentencing of children of Aboriginal and non-English speaking backgrounds. Honourable members will appreciate that Aboriginal and Torres Strait Islander young people and young people from non-English speaking backgrounds are overrepresented in the juvenile justice system. The point was to determine at what stage of the juvenile justice process any disparity in treatment is occurring.

During 1995 a system for the collection of data was developed. That system has now been included in the routine statistical collections of the Department of Juvenile Justice. In 1996 data was gathered to examine outcomes for young Aboriginal persons and for young persons of various ethnic backgrounds to determine whether there was evidence of disparate treatment. Samples of Aboriginal and Torres Strait Islander juveniles and juveniles from four non-English speaking ethnic groups—Pacific Islander, South-East European, Middle Eastern and East Asian—were carefully matched with juveniles of Anglo-Australian background and compared in terms of the severity of the sentences they received. They were matched on factors known to influence sentencing: type of offence, criminal history, age, plea, number of counts, police bail status and whether they were sentenced in a specialist or non-specialist Children's Court, among others.

The study found that children in the Aboriginal and Pacific Islander category received significantly harsher penalties than their Anglo-Australian counterparts. Aboriginal and Torres Strait Islander offenders received more community service orders and more supervised orders than their Anglo-Australian counterparts. Both types of penalties were at the more severe end of the penalty hierarchy. There were no statistically significant differences for other ethnic groups examined, although the direction of the differences was consistently in favour of the Anglo-Australian groups. In relation to Aborigines and Torres Strait Islanders it was found that city courts tended to impose more severe sentences than country courts.

The data collected was based on 1996 information. The Judicial Commission already conducts a series of education programs for the judiciary on cross-cultural awareness and issues relating to the children's jurisdiction and Aboriginal and ethnic young people. Since 1996 the commission has stepped up its cross-cultural awareness program for judicial officers and has conducted visits for judicial officers to several Aboriginal communities, including Nowra and the Blue Mountains. Not for any purpose to suggest any complacency—because honourable members acknowledge this is a serious matter—do I say that the data was from 1996. Reports I have received in recent times from people like Judge Bellear and others indicate that Judicial Commission programs have been useful, and I hope they will have an effect.

Clearly, this report will influence the course of conduct of the Judicial Commission. Copies of the study have been distributed to all judicial officers so they are aware of the findings and the complex issues involved in the sentencing of offenders from diverse backgrounds. It is incumbent upon each member of the judiciary to examine his or her approach to the sentencing of juveniles from a non-Anglo-Australian background and to be aware of conscious or unconscious prejudices and of any tendency to stereotype such offenders.

It should also be noted that the introduction of the Young Offenders Act 1997 means that warnings,

cautions and youth justice conferences should become widely used strategies for diverting young people from court. As such, strenuous efforts are being made by those involved in its implementation to ensure that such options are available to all young offenders, but in particular to Aboriginal and Torres Strait Islander offenders, and that fair and equitable outcomes are achieved. The data collection system which has been put in place for monitoring and evaluating the Young Offenders Act will be able to identify any disparities that are occurring.

VALUER-GENERAL LAND TAX EVIDENCE

The Hon. J. F. RYAN: I direct a question without notice to the Treasurer. Did the Treasurer or a member of his personal staff make contact with the Valuer-General yesterday afternoon after the Valuer-General had given evidence to General Purpose Standing Committee No. 1, which is inquiring into land tax in New South Wales? Did the Treasurer or a member of his staff ask the Valuer-General to change the evidence he had given to the committee? Did the Treasurer or a member of his staff ask the Valuer-General to issue a press statement, and was he supplied with the phone numbers of a number of journalists and asked to contact them, again in order to change evidence he had given to the committee?

The Hon. M. R. EGAN: A member of my staff did contact the Valuer-General yesterday afternoon. Is there anything wrong with that? No member of my staff told the Valuer-General to change the evidence he gave but, as I understand it, a member of my office did ask the Valuer-General about what the media understood to be the evidence that the Valuer-General had given. Subsequently, the Valuer-General clarified this. This is the statement made by the Valuer-General:

> During today's upper House land tax inquiry I was asked about the increase in the number of properties affected by the land tax on principal private places of residence—properties with a land-only value of $1 million or more. I understood the question to relate to the year between 1996 and 1997-when I understand the number of properties in this category increased by about 50 per cent due to the booming property market. However, this does not affect the Government's current year forecast of 2,700 affected properties.

The Hon. J. F. RYAN: I ask a supplementary question. Did the press secretary of the Treasurer supply the Valuer-General with phone numbers and contact details of news journalists?

The Hon. M. R. EGAN: I would not know the answer to that, but I would hope so. Yes, I have been told that that happened. Well done!

KNIFE POSSESSION PENALTY EXEMPTION

The Hon. J. S. TINGLE: I ask the Attorney General whether he is aware of an unforeseen consequence of the ban last Friday on the sale of knives to persons under the age of 16 years as it relates to persons working in abattoirs in country New South Wales. Is it true that many youths aged only 15 work in such abattoirs, which are major employers in some country towns? At the Cowra abattoirs youths are required to purchase their own knife kits for boning, skinning and slicing at a price of up to $160? Are youths under 16 years of age now prohibited from buying such kits? Are they also banned from taking the kits home from work to prevent them from being stolen if left in the work place? Is an abattoir such as the one at Blayney, which supplies knives to its workers, in breach of this provision if it supplies knives to workers less than 16 years of age? Is this rule likely to affect the employability of some youths in country towns? Will the Attorney review this situation to protect the rights of youths to buy or to be supplied with knives?

The Hon. J. W. SHAW: The Parliament pronounced, I think unanimously, a ban on the retail sale of knives to young people under 16, and at that time detailed negotiations took place with retailers about the implementation of the provision. I would need to be persuaded by something further than the honourable member's question that there was any difficulty along the lines he has suggested. I acknowledge there will be different requirements at meat processing premises, because I am familiar with the industry, but I should have thought that employers and/or TAFE teachers and/or parents could purchase knives for such employees.

Certainly the legislation proceeding through the House sponsored by my colleague the Hon. Paul Whelan makes appropriate exceptions for work and recreational use of knives. The package has been well thought out. I do not understand why a retail purchase could not be appropriately effected by parents, employers, work supervisors, TAFE teachers or the like. It does not seem to be a situation so profound as to demand any fundamental reconsideration of the matter. However, there is as part of the package a regulation-making power that can effect exemptions, and already there is one self-evident exemption. It is of a minor or trivial nature. That is to say the plastic knives that are sold or given to—

The Hon. Dr B. P. V. Pezzutti: That was gazetted this week.

The Hon. J. W. SHAW: That is what I am saying. It has been done already in relation to the plastic knives given to customers at fast food and other food outlets. If there is a case for other exemptions, they can be considered case-by-case. I will take the honourable member's question on board. Prima facie, I should have thought there was not a particularly pressing need for the facilitation of the sale of knives to apprentices in the industry, but if there is, it can be dealt with by way of regulation.

SCHOOL MAINTENANCE CONTRACTING

The Hon. A. B. MANSON: Will the Minister for Public Works and Services inform the House of the progress of the statewide implementation of the new contracting method of school maintenance and the role that the Department of Public Works and Services plays in this process?

The Hon. R. D. DYER: The Carr Government has developed a new contracting method to achieve a more effective and efficient means of delivering the service referred to in the honourable member's question. The Government has done away with the outdated methods and inefficiencies by which previously 90 per cent of school maintenance work was undertaken through many hundreds of contracts. The other 10 per cent was performed by Department of Public Works and Services field staff predominantly located in the metropolitan area. The new service delivery will provide whole-of-government efficiencies. This translates into savings of up to $5 million each for the Department of Public Works and Services and the Department of Education and Training in the delivery process and will provide school principals with a one-stop shop for maintenance issues.

As an aside for the information of the House, I understand from the Department of Public Works and Services that various school principals have already commented favourably on the service. The new service will also reduce the number of contracts let, optimise private sector participation, encourage private sector innovation, create real incentives for all parties to perform against service benchmarks, and, finally, provide a quality service to the Department of Education and Training and its school principals. In regard to that last point I have arranged for officers of the Department of Public Works and Services to meet directly with school principals throughout the State.

This contact will ensure that the Department of Public Works and Services understands clearly the points of view of its clients. The new method involves using 20 external contracts lasting for a minimum of six years to deliver the maintenance for schools in 34 of the 40 Department of Education and Training districts. The Government received an outstanding response from private sector firms following its call for expressions of interest to undertake the new school facilities maintenance program. To ensure equity between city- and country-based firms the Government held a series of statewide briefing sessions for prospective tenderers. When tenders closed, the Department of Public Works and Services received more than 180 submissions across all districts.

I am pleased to advise the House that the first stage of the tendering process, undertaking surveys into the physical condition of schools, has been completed. The second stage is well under way with the Department of Public Works and Services having called for tenders for all packages. Work has started on 18 of the contracts. The remaining two contracts, for the central coast and Hornsby and the northern beaches and Parramatta, were awarded last month. The new method also involves staff of the Department of Public Works and Services providing a maintenance service in six districts—five Sydney metropolitan districts and the Lake Macquarie district. The involvement of Department of Public Works and Services wages staff will provide a performance benchmark for private sector maintenance contractors. The new system will deliver a better service to the school community across the State and encourage innovative solutions from the private sector to achieve value for the taxpayers.

The system will provide employment for rural New South Wales. For example, a number of companies that operate in the country have won contracts. These include the Albury and Deniliquin parcel, the Griffith and Wagga Wagga area, the separate Port Macquarie and Dubbo parcels and the Batemans Bay area. In addition, larger city-based firms from, say, Sydney or Wollongong that have won contracts employ people from the local community, which means that all levels of the community benefit from this new school maintenance strategy.

DEPARTMENT OF COMMUNITY SERVICES BUDGET ENHANCEMENTS

The Hon. PATRICIA FORSYTHE: My question without notice is directed to the Treasurer. I refer to weekend media reports that an immediate financial audit has been ordered by Carmel Niland to determine what levels of funds are needed by the Department of Community Services. Is it not a fact

that State Cabinet in recent weeks has approved an approximate $40 million budget enhancement to cover the budget shortfall and to meet additional salary claims in the department? Did Cabinet also approve an enhancement of $5 million to improve the information technology capacity of the department? In view of the admitted morale problems in the department, why has the Government held back on making this announcement? Was it because it might have made the previous director-general, Helen Bauer, look good? Is the weekend's media report just a carefully scripted con job?

The Hon. M. R. EGAN: Is the honourable member talking about Saturday's newspapers?

The Hon. Patricia Forsythe: No, Sunday's newspapers.

The Hon. M. R. EGAN: I did not read the Sunday newspapers. As for what is in the budget, honourable members will have to wait until 2 June.

RIVERINA INVESTMENT

The Hon. J. R. JOHNSON: I ask the Minister for State Development what the Government is doing to attract new investment in the Riverina.

The Hon. M. R. EGAN: The Hon. J. R. Johnson has a great interest in the Riverina, as he has in many other of the great regions of New South Wales. The Riverina is one of Australia's major horticultural and agricultural production areas. In recent years the area has experienced substantial economic growth. In fact, between 1991 and 1996 the Riverina recorded the highest growth in personal weekly income in all New South Wales. Workers in the Riverina now take home the third-highest salaries in the State. For the five years to 1996 the local population grew by some 2,800. The Riverina is a great New South Wales success story.

Companies are investing substantial funds, creating new jobs and exploring export opportunities. There are many examples of that. Bartter Enterprises, one of Australia's largest chicken producers, will invest $125 million to expand its operations, which will create about 970 new jobs. Riverina Wines has recently spent $15 million to expand and upgrade its vineyards and bottling facilities. This new investment, aimed at boosting domestic and international sales, will create 75 full-time and 50 part-time positions in the next three years. Amazon Bridge Pty Ltd has spent the past three years assessing and analysing international demand for its product. That company is now successfully exporting to the United States, proving that with proper planning and market research it is possible to succeed in the world's most difficult citrus markets.

Teasco Industries Pty Ltd is a Wagga Wagga manufacturer of aluminium doors, windows and skylights. It has been supplying to the local market for about 20 years and employs about 40 staff. The company was recently awarded the contract to supply part of the new Hong Kong airport with aluminium skylights. Following that success, it has now been invited to bid for the supply of skylights for the new Singapore international airport. The total investment planned for the Riverina exceeds $208 million. The projects have the potential to create 4,000 direct and indirect jobs. The New South Wales Government is committed to the growth and development of businesses in the Riverina. It will continue to assist local firms to capitalise on investment and job opportunities.

TOTALIZATOR AGENCY BOARD PRIVATISATION

The Hon. R. T. M. BULL: My question is addressed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Does the Government intend to take out a special dividend prior to the sale of the New South Wales Totalizator Agency Board to prop up its budget? If so, how much will that dividend be? Where in the prospectus is the taking of such a dividend identified?

The Hon. M. R. EGAN: I shall take that question on notice, as I shall all questions relating to the share offer document. I assure honourable members that none of the proceeds of the sale of the TAB will be used to prop up the State's budget. All of the proceeds, every single last cent, will go to pay off State debt. I am pleased to announce to the House and tell Opposition members that this is the first government—certainly in my lifetime, which is 50 years, and probably in the 200-year history of this State—that has reduced State debt rather than added to State debt. I point out that the coalition added more than $2 billion to the State debt in its seven years in office, notwithstanding the sale of the State Bank and the sale of almost $2 billion worth of business enterprises.

I know that Opposition members do not like hearing this, but I point out that—notwithstanding $1,600 million of expenditure on Olympic infrastructure, record levels of expenditure on health, education and community services, and record public

works budgets each and every year—I as Treasurer have reduced the State debt by about $1 billion and have reduced State-funded superannuation liabilities by about $2 billion. The sale of the TAB will mean that the Government can reduce the State's debt by about another $1 billion. As soon as I get those proceeds I shall write a cheque to John Fahey, the Federal Minister for Finance and Administration. There is some delicious irony in that, because I shall pay back to John Fahey some of the debt he helped to stack up when he was Premier and when he was a Minister in the Greiner Government. The debts that I will pay off—debts incurred by the New South Wales Government between 1988 and 1995—will save the State $106 million a year.

FORESTRY CONSERVATION

The Hon. R. S. L. JONES: I ask the Attorney General, representing the Minister for the Environment, what steps the Minister intends to take in regard to requests made to members of the Yarangalo Voluntary Conservation Agreement Group during a meeting on 20 April 1998. Will the Minister ensure that Tantawangalo and Yurammie State forests are protected as national parks and thereby ensure the integrity of the contiguous forest corridor from the tablelands to the coast? Will the Minister ensure that areas of Tantawangalo and Yurammie State forests contiguous to the voluntary conservation area are protected in the national park system to maintain the integrity of the wildlife corridor from the tablelands to the coast?

The Hon. J. W. SHAW: I shall refer this question to the Minister for the Environment to obtain a response.

DEPARTMENT OF FAIR TRADING REGIONAL ASSISTANCE

The Hon. A. B. KELLY: I address my question to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. What steps is the Carr Government taking to ensure that the people of regional New South Wales receive information and assistance from the Department of Fair Trading?

The Hon. J. W. SHAW: This is the first question I have been asked in my capacity as Minister for Fair Trading. The Hon. A. B. Kelly has referred to the situation of people in country areas, those in the bush. The Carr Government is committed to providing security and protection for communities in regional and rural New South Wales. Its 23 fair trading centres across the State are at the forefront of a campaign to ensure that the people of regional and country areas get the services they need and deserve. There are 18 fair trading centres serving regional and country areas. Those centres provide a vast range of services and information for consumers and traders, including free information on their rights and responsibilities on goods and services transactions, building and renovation work, business name registration applications, co-operatives and tenancy advice.

In addition, to meet the increase in demand for services in regional areas, expanded fair trading centres have opened at Gosford, Orange, Port Macquarie and Coffs Harbour. Metropolitan Sydney has not been neglected either. The Government is ensuring that the suburbs are also supported. The Western Sydney Fair Trading Centre, located at Penrith, is an example of that, providing services to consumers and traders living as far afield as the upper Blue Mountains. But the extension of fair trading centres themselves is not enough to ensure that services get to where they are needed in the regions. Direct mail of Department of Fair Trading publications keeps target consumer and business groups in touch with relevant issues. Amongst those target groups are retirees, the real estate industry, home building contractors and members of co-operatives.

Departmental staff around the State are kept informed of all current fair trading matters by the customer assistance system—CAS. At the touch of a button that system provides staff with consistent, accurate and up-to-the-minute information on legislation, current publications and details of the latest consumer problems or scams. I assure the House that although the Department of Fair Trading embraces the technological age, it has not forgotten the importance of direct interaction, the personal touch. Staff from regional centres undertake a busy schedule of displays and seminars around the State. Last year 700 seminars, outreach programs and shopping centre visits and displays were held in rural and regional areas.

An important part of the work of the Department of Fair Trading is its support for the network of government access centres, which have been established throughout rural New South Wales by the Premier's Department to provide one-stop access to State Government services. Such facilities have already been established at Dorrigo, Gilgandra, Grenfell, Kyogle, Maclean, Nambucca Heads, Nyngan and Oberon and more are planned for future years. Last November the Government announced its statement of commitment to Aboriginal people, and the Department of Fair Trading was called upon to respond. I will take an active interest in the Government's policy for service provision to

Aboriginal people, which is currently under intense development.

Initiatives are already in place for Aboriginal people in rural areas, including funding for Aboriginal tenants advisory and advocacy services, and additional staff at regional Aboriginal tenants advisory services in Grafton, Dubbo and Batemans Bay. A series of banking forums was organised by the Department of Fair Trading at Bathurst, Wagga Wagga, Grafton and Maitland, and I am advised that they were well attended by banking customers and consumer groups. They provided an opportunity for banking customers in rural areas to air their concerns, which I am told they did, in no uncertain terms. One of the first undertakings I made when I assumed this portfolio was to visit country New South Wales to open new fair trading centres. I will make a number of such visits in the months to come. Fair trading Ministers who preceded me in this Government have performed well in the fair delivery of government services where required, and I hope to continue in that tradition.

CENTRAL COAST BUSINESS INVESTMENT

The Hon. E. M. OBEID: My question is to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. What is the Government doing to attract new businesses in the central coast region?

The Hon. M. J. Gallacher: Where?

The Hon. M. R. EGAN: Where? The Opposition does not know where the central coast is. What an appalling admission! The central coast is the fastest growing region in New South Wales and one of the fastest growing regions in Australia. More than $120 million in major property development was announced for The Entrance in March by Megatrend Corporation Pty Ltd.

The Hon. D. J. Gay: When are you coming to Crookwell?

The Hon. M. R. EGAN: I went to Crookwell and the Hon. D. J. Gay was not there. The Megatrend development will involve the construction of a major tourist centre incorporating apartments, restaurants, retail outlets and car parks. Gosford City Council is about to commence a $70 million urban and town centre renewal program. The Premier recently announced a number of projects which will create more than 200 new jobs within the region. The largest project involves Weir Engineering Pty Ltd, a subsidiary of the international conglomerate of the Weir Group, which will spend $2.3 million to expand its Somersby plant into its Australian administrative headquarters, creating 150 new jobs.

The second project involves Gosford Terrazzo Company, a tile manufacturer, which will introduce two new product lines, necessitating the employment of 40 new staff. The third project involves the relocation of Surene Pty Ltd, a manufacturer of confectionary products, from Sydney to Charmhaven, a move that will create about 40 new local jobs. Finally, a New Zealand-based company, C-Dax Systems, is establishing a sales and distribution centre in west Gosford, which will create seven new jobs.

The Hon. E. M. Obeid: They are not listening.

The Hon. M. R. EGAN: No, the Opposition is not interested. The company, which manufactures chemical spray and pump equipment, chose Gosford because it is close to transport, ports and highways, and because the city has a skilled work force. That investment is exactly what the Government hoped for when it established the Central Coast Economic Development Board in September 1996. The board continues to provide the Government with information and advice on the local economy and strategies to help it attract investment to the region and create jobs. I congratulate the companies I have referred to today and encourage others to follow their lead and take advantage of the many benefits the central coast has to offer business.

TOTALIZATOR AGENCY BOARD PRIVATISATION

The Hon. D. F. MOPPETT: My question is addressed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Is the Minister aware of the statement issued today by the TAB Chairman, Gary Pemberton, warning prospective TAB share buyers against overinflated expectations? Is it true, as suggested, that the value of the TAB has been reduced from the Treasurer's estimate of $1.2 billion to $1 billion, or perhaps even less?

The Hon. M. R. EGAN: This morning Gary Pemberton and I were at pains to point out to investors that they should make a careful, intelligent and informed decision before deciding to invest in the TAB.

The Hon. Dr B. P. V. Pezzutti: It is becoming more crooked by the week.

The Hon. M. R. EGAN: That is a stupid statement.

The Hon. Dr B. P. V. Pezzutti: The whole deal is getting smellier by the week.

The Hon. M. R. EGAN: That is a disgraceful comment to make.

The Hon. Dr B. P. V. Pezzutti: I will tell you why in a minute.

The PRESIDENT: Order! The Minister and the Hon. Dr B. P. V. Pezzutti will cease discussing the matter across the table.

The Hon. M. R. EGAN: The honourable member and the Opposition will end up with egg all over their faces. It is absolutely clear that share mania exists in the Australian community and that is evidenced by the fact that by 10.15 a.m. today 1,030,000 people had preregistered for a TAB share-offer document. I do not expect that number of people will subscribe for shares; the figure will be a lot lower than that. It is important that people are not stampeded into applying for shares simply because the person next door or someone at the pub or club is subscribing. Every person who subscribes for shares should read the share offer document carefully and make an intelligent and informed decision. Mr Pemberton and I were both at pains to point that out this morning. I have been at pains to caution everyone in interviews I have held today.

WORKPLACE SAFETY

The Hon. B. H. VAUGHAN: I address my question without notice to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. A couple of months ago the Minister announced a WorkCover blitz in the Newcastle area. Will the Minister inform the House of the progress or results of that blitz?

The Hon. J. W. SHAW: The blitz to which the honourable member refers was divided into two phases: initial visits by inspectors to randomly selected work places, and a follow-up visit where necessary. The results of phase one are to hand. First, I shall refer to the methods adopted by the inspectors in the performance of this task. WorkCover Authority carried out random inspections of small to medium businesses over a period of three weeks. These included light engineering companies, abrasive blasting companies and companies whose activities involve loading and unloading.

The areas inspected included Wickham, Carrington, Islington, Mayfield and Tomago. The focus was on compliance with the occupational health and safety legislation. The objects were fourfold: to identify occupational health and safety problems in the workplace and to assist employers in overcoming those problems; to improve levels of compliance with legislation; to issue prohibition and improvement notices where appropriate; and to issue infringement notices where appropriate. When significant safety risks were encountered in the course of the blitz, inspectors were to take the usual enforcement action and proceed to issue remedial notices or impose on-the-spot fines. These are being followed up in phase two, which will commence in June this year.

The results of phase one are: 62 workplaces visited with 102 improvement notices and 25 prohibition notices issued; eight fines imposed with a total value of $3,410; and improvement notices issued for a variety of shortcomings concerning unguarded machines as well as portable electrical tools and equipment being in a poor state of repair. While some of the targeted employers exhibited an acceptable level of awareness of occupational health and safety legislation and their obligations under it, the level of awareness in a significant number of workplaces visited was found to be unsatisfactory. I have directed WorkCover to consider ways of increasing safety awareness in the region and will report to the House on the results of phase two and the safety awareness programs conducted by WorkCover as soon as possible.

DEATH OF ANNA WOOD

The Hon. ELAINE NILE: I direct my question without notice to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading, representing the Minister for Education and Training. Will the Minister investigate why a Department of Education and Training drug consultant, Melinda Bower, informed a parents awareness night at Concord High School on Thursday 26 March that Anna Wood died from an overdose of water? That statement greatly upset the Wood family. Will the Minister investigate why such departmental consultants are not making it plain that people overdose on drugs, not water, so that parents and teenagers are not given misleading information?

The Hon. J. W. SHAW: I certainly undertake to raise the honourable member's question with the Minister for Education and Training and obtain a response.

GEORGE STREET AND RAILWAY SQUARE UPGRADE

The Hon. HELEN SHAM-HO: My question without notice is addressed to the Minister for Public Works and Services. I refer the Minister to

the considerable work being carried out in George Street, Sydney. It was reported in the media last Friday that the owner of a jewellery shop was unable to gain access to his shop as workers were mixing concrete in front of his business. What measures is the Government taking to ease the burden on businesses directly affected by all the heavy construction in this part of Sydney? When will the upgrade of George Street be completed?

The Hon. R. D. DYER: The proposed works in George Street are aimed at improving pedestrian safety and amenity and at striking a balance between the available space for vehicles and pedestrians. On 16 October 1997 Leighton Contractors Pty Ltd was awarded the contract for stage one, which encompasses the area from Bathurst Street to north Rawson Place, at a cost of $14 million, and commenced preparatory work in November 1997. Leighton did not start work until January 1998 as retailers had requested that work not commence until after the 1997 Christmas trading period. As a result, work fell behind the programmed completion dates.

Once work commenced, a number of hidden latent site conditions were uncovered, which caused additional delays. In recent weeks Leighton has been working under difficult conditions caused by frequent heavy rainfalls and the changed traffic management requirements of George Street. Regular meetings between the Department of Public Works and Services, the city council and Leighton are addressing these issues. Leighton has undertaken to increase its work force on site, has agreed to provide sufficient resources to complete the contract to program, and has reiterated its commitment to meet the scheduled completion dates for the various sections of the work. The Department of Public Works and Services has informed Leighton that access to shops and businesses along George Street is a contractual requirement.

I am advised that one incident in which a shopkeeper was unable to gain access to his premises has been brought to the attention of the department and the department contacted the contractor concerned. In response, Leighton has taken action to ensure that issues of this type do not recur. The company has convened a meeting of all foremen and has undertaken to reinduct all supervisors and the paving contract crew. Notwithstanding this one incident, Leighton has been praised by other businesses along George Street for its efforts in extremely difficult circumstances. I am informed that completion of this contract is scheduled to occur progressively up to the end of 1998.

A number of work fronts have been and are being opened along the length of George Street. Contractors are required to submit construction sequence and methods proposals to the city council's traffic management committee, which has decision-making responsibility for such matters. The number of work fronts accords with the requirement of the traffic management committee and is required to ensure the most productive use of the available time and resources. Works of this nature, magnitude and complexity disrupt to some extent pedestrian and vehicle traffic from time to time. However, it is intended that commercial enterprises along the street will remain open for business and continue to trade during the remodelling of George Street. Leighton is working, and will continue to work, closely with the department and council to devise strategies to minimise disruption.

I am advised that council, the New South Wales Police Service and especially the Roads and Traffic Authority have the responsibility for determining traffic flows. As such, the department will not be involved in decisions affecting traffic flows but will ensure that contractors comply with these decisions. In conclusion, the widening of pavements, the planting of additional trees, the updating of street lighting, the introduction of new street furniture and the emphasis on safety considerations will provide a framework for a stylish and practical upgrade fit for the year 2000 and beyond.

VIOLENCE AGAINST WOMEN

The Hon. Dr MEREDITH BURGMANN: My question is addressed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Will the Attorney inform the House about the regional action plan to reduce violence against women in the Greater Murray region?

The Hon. J. W. SHAW: On 1 May 1998 the regional action plan to reduce violence against women for the greater Murray region was launched in Albury. The plan is part of the Government's New South Wales strategy to reduce violence against women, about which I have informed the House in the past. Honourable members will recall that there is a network of regional specialists located in 17 regions throughout New South Wales. I was pleased to attend its training course and to meet those specialists, who are doing great work. Their role is to enhance linkages within and between government and non-government agencies, to facilitate community education programs and to develop prevention programs to reduce violence against women.

The action plan for the greater Murray was developed by Karen MacLean, the regional violence prevention specialist, in conjunction with the regional reference group and the violence against women specialist unit. The regional action plan for the greater Murray is an 18-month plan with six different projects. The plan sets out a strategy, the responsible parties, outputs, outcomes and time frame for each of the projects. The projects for the area are: to increase knowledge of the nature and extent of violence against women in the greater Murray region; to enhance linkages between key service providers and agencies who have a responsibility to address issues of violence against women in the region; to provide regionally relevant professional development opportunities for service providers within the region which address issues of violence against women; to develop and implement a violence prevention strategy in the south-west slopes area; to develop a model of best practice to increase access by Aboriginal women to services; and to develop crime prevention strategies for lesbians.

To complement the projects and in keeping with the community development approach of the strategy, the regional specialist will also participate in and support key community initiatives including domestic violence forums hosted by the Country Women's Association, a training program being organised by Women Working with Women, New South Wales Health domestic violence core training, and the rural ethnic services interlink project. I congratulate the specialist, Karen MacLean, and the violence against women specialist unit on the excellent regional action plan that has been developed. I look forward to receiving further information about the progress of the project and to informing the House about it from time to time.

LAND TAX

The Hon. Dr MARLENE GOLDSMITH: My question without notice is addressed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. I refer the Minister to an article in yesterday's *Australian Financial Review* headlined "NSW land tax 'overkill' conceded". Is the Minister aware that the article states that New South Wales Treasury has conceded that land tax measures would recoup about $70 million above budget forecasts in 1997-98? Is the Minister further aware that the Valuer-General has estimated that his valuations, upon which the Office of State Revenue estimates the number of homes paying owner-occupier land tax, resulted in a 50 per cent blow-out in valuations? Why, therefore, should the public believe the comments of his office in the media that 2,000 to 3,000 home owners will pay land tax?

The Hon. M. R. EGAN: In response to the last part of the question, the number of affected properties is 2,732.

The Hon. Dr Marlene Goldsmith: So far.

The Hon. M. R. EGAN: That is the number of residential properties that are owned by individuals with a land-only value exceeding $1 million. As I have pointed out previously, an additional number of affected properties are owned by either trusts or companies. As for the increase in revenue anticipated this year from land tax generally, the honourable member should not have waited until she read an article in yesterday's *Australian Financial Review*; I would have expected her to read my half-yearly budget update, which I released about six weeks ago.

The Hon. Dr MARLENE GOLDSMITH: I ask a supplementary question. Given that the valuation process has not concluded and will include many hundreds more households in its net, which the Treasurer has not calculated, as Treasurer is he not responsible for the error and distress that this legislation has caused to thousands of Sydney home owners? Will the Treasurer apologise to those people for the distress he has caused?

The Hon. M. R. EGAN: I make no apology for this tax, which is imposed on the top 4,000 residential properties in New South Wales, because the people of this State—

The Hon. J. F. Ryan: So it is 4,000?

The Hon. M. R. EGAN: No. I have made it clear on about 10 occasions that it is 4,000 properties including those owned by trusts and companies. The community spends billions of dollars making this city one of the finest in the world, and that ensures that those premium elite properties have huge land values. The number of people who have applied for and been granted deferment of the payment of this tax can be counted on two hands. A few weeks ago the Opposition touted a report written by someone the *Sydney Morning Herald* claimed to be the director of the theoretical research institute of the University of Sydney.

The Hon. J. F. Ryan: It was Dr Colin Rose.

The Hon. M. R. EGAN: Yes. Dr Colin Rose wrote to the *Sydney Morning Herald* pointing out

that he had nothing to do with Sydney university. My office also wrote to the newspaper pointing out that same error. No doubt the newspaper had been given that information by the Opposition and treated it as a fact. It continued to do so even after we pointed out that it was wrong and that Dr Rose had nothing to do with the university. In fact, the gentleman operates his business from a private home in Sydney's eastern suburbs, which I am advised last changed hands in 1988 for well in excess of $2 million.

PATRICK STEVEDORING DISMISSALS

The Hon. I. M. MACDONALD: Will the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading outline to the House the implication of yesterday's High Court ruling involving Patrick stevedores and the Maritime Union of Australia and its 2,000 unlawfully dismissed work force?

The Hon. J. W. SHAW: I know that the Hon. I. M. Macdonald and other honourable members have taken an active interest in the waterfront dispute.

The Hon. J. M. Samios: On a point of order. This matter is before the House by motion moved by the Hon. I. M. Macdonald. It is not within the purview of the Minister to reply in anticipation of debate.

The PRESIDENT: Order! I will allow the Minister to proceed, but he should not anticipate debate on the subject matter of the motion which has been moved by the Hon. I. M. Macdonald.

The Hon. J. W. SHAW: Four Federal Court judges have held that interim relief be granted in this case and that there has been an arguable breach of the Workplace Relations Act involving a conspiracy to commit illegal acts. The High Court, by its judgment yesterday with a majority of six to one, upheld the view that interlocutory injunctions should be put in place to preserve the status quo prior to the mass dismissal. It is reasonable to say that 10 of our eminent judges, with only one dissenting, have held that an arguable case of unlawful behaviour has been made out.

Essentially the argument is that a substantial and operative factor in the dismissal of these workers was their membership of a union, which, of course, is against Mr Reith's own legislation—the Workplace Relations Act. One can understand courts, in their equitable jurisdiction, restraining conduct of that kind and rejecting the argument that damages are an appropriate or sufficient remedy. It is now incumbent upon all parties to take a practical and responsible approach to the implementation of these orders. Negotiation ought to ensue.

Our legal system has spoken. It has held that a union has made out a case that a wrong has been done to its members, and it is understandable that the law provides remedies. All parties should respect the decision of the court and give effect to it. It is time for serious negotiations and compromise all round. It is time for honest dealing to replace plotting and planning and for the public interest in the maintenance of an orderly waterfront to prevail. That is the very course that Premier Bob Carr put forward two weeks ago. None of this means that there should not be positive moves to greater efficiency and productivity on the Australian waterfront; there should be. But those moves can be made lawfully and peacefully on the one hand, or unlawfully and confrontationally on the other. The legal saga of the current controversy demonstrates that a reform process will be best pursued by reasonable bargaining, frank disclosure and co-operation of the parties.

COMMONWEALTH-STATE MEASLES CONTROL CAMPAIGN

The Hon. A. G. CORBETT: I ask the Minister for Public Works and Services, representing the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs a question without notice. I refer the Minister to the proposed Commonwealth-State measles control campaign. When will the Minister publicly announce the details of the proposed campaign, which is due to be implemented between July and October this year—possibly within two months? Are parents entitled to this information as soon as possible to enable them to provide, at the appropriate time and place, their informed consent?

The Hon. R. D. DYER: I shall obtain a suitable response from my colleague the Minister for Health.

SILICON CHIP INDUSTRY

The Hon. D. J. GAY: My question without notice is directed to the Treasurer in his capacity as Minister for State Development, representing the Minister for Regional Development. Is the Minister aware that last Friday's *Australian Financial Review* reported:

> New South Wales has neither the political leadership nor the bureaucratic depth to underpin the development of a complex industry such as silicon chips.

Is it true that this State is no longer in the running for this most important future industry? Is it also true that Victoria is now the site preferred by international companies, such as Intel and the Korean Anam group, for the Australian silicon chip industry? Given that it is estimated that a group of chip plants could create 25,000 jobs and $12 billion in exports by 2005, what steps is the Minister taking to secure such investment in New South Wales? The article further stated that the few industry-aware bureaucrats in this State have only just begun to develop comprehensive industry policies, while the Victorian Government has been described by the head of Anam Technology as more progressive than New South Wales.

The Hon. M. R. EGAN: I did not see the article in question, but my attention has been drawn to it. I understand that Anam Technology Pty Ltd has a small office in Sydney, and has had since 1994, and that the Government assisted it in late 1995 by arranging an advanced electronic design seminar to enable it to present itself to industry. I am also informed that Anam Technology did not formally approach the New South Wales Government for assistance to establish a new silicon chip design facility. Officials of my department, however, were aware of the substantial offer of assistance by Victoria to woo that activity to Melbourne.

The amount of support that Anam Technology was seeking was beyond what was considered prudent for this type of investment, particularly since it would only have employed 40 people in total. I understand that in excess of $1 million was offered to that company for the employment of 40 people. That comes at a big price per job. I suppose if New South Wales had the difficulties in attracting investment that some other states have it might be forced to offer those sorts of inducements. The fact of the matter is that approximately three quarters of Australia's top 100 information technology and telecommunication companies have their headquarters located in Sydney. In the past 12 months New South Wales has captured Digital Computer Special Systems, Wireless Data Services, Newbridge Technologies, Rockwell, and Pink Elephant—which is a Dutch information technology consultancy and education company.

In addition, Oracle Systems, Lucent Technologies and Bell laboratories have announced significant expansion in Sydney. In total, these companies will employ more than 1000 new skilled people during the next four years. I congratulate Victoria on getting 40 jobs. By the way, while I am talking about the comparative performance of New South Wales and Victoria, might I turn the attention of honourable members to today's Australian Bureau of Statistics publication entitled *Building Approvals*. That shows that during the month of March, New South Wales accounted for approximately 40 per cent of all business building approvals in Australia—that covers hotels and motels, shops—

The Hon. J. P. Hannaford: We should always account for that percentage.

The Hon. M. R. EGAN: Forty per cent? We have 34 per cent of the Australian economy and yet we are regularly attracting 40 per cent of business building approvals to New South Wales. It is significant that Victoria, which is three-quarters the size of this State in terms of population and its economy, can manage less than half of what the Government is attracting to this State. For example, in the month of March business building approvals for New South Wales amounted to $386 million. In Victoria they amounted to $148 million.

The Hon. J. P. Hannaford: Take out all of the Olympics development.

The Hon. M. R. EGAN: I will do that. Let us have a look, for example, at offices: $40.8 million in New South Wales compared with $26.2 million in Victoria. Other business premises: $65 million in New South Wales compared with $28.6 million in Victoria. Even if we take out $52.1 million for entertainment and recreational facilities—because, obviously, the Leader of the Opposition thinks they are all Olympic related; they are not all Olympic related—we have a March figure for New South Wales of $334 million compared with Victoria's figure of $148 million.

If honourable members have further questions they might like to place them on notice.

BATHURST OFFICE FOR REGIONAL DEVELOPMENT MANAGER

The Hon. M. R. EGAN: On 31 March, the Hon. D. J. Gay asked me numerous questions without notice relating to the Bathurst Office for Regional Development. The Minister for Regional Development, and Minister for Rural Affairs has provided the following response:

> Mr Glenn Taylor is a temporary employee of the office of the Minister for Regional Development, and Minister for Rural Affairs as provided under section 38 of the Public Sector Management Act and receives the associated entitlements. Mr Taylor was employed in the classification of research officer from 4 March 1998. The Act, at division 5 "Temporary Employees", Section 38(3) provides that:

The appropriate department head:

(a) may employ a person under this section for a period not exceeding 4 months, and

(b) subject to the regulations, may from time to time employ the person at the end of that period, or at the end of any subsequent period, for a further period not exceeding 4 months.

With the exception of agencies' departmental liaison officers, staff in all Ministers' offices are employed by the Premier's Department. The previous Government also used the temporary employment provisions of the Public Sector Management Act 1988 to employ staff in Ministers' offices. The Minister for Regional Development, and Minister for Rural Affairs has never used a vehicle to which he was not entitled. Mr Taylor is employed within the administrative and clerical award pay scale. He is employed on a standard salary and superannuation arrangement. He will not be provided with a mobile phone or a car.

M5 EAST EXTENSION

The Hon. M. R. EGAN: On 1 April the Hon. J. M. Samios asked me a question without notice relating to the M5 East extension. The Minister for Transport, and Minister for Roads has provided the following response:

The M5 East is a large and complex project with environmental and technical issues that have delayed the commencement of construction of the new road, The project has had a lengthy community consultation period and considerable changes have been made to the original plans to resolve environmental matters and to meet engineering requirements. Unlike the coalition which supports calls for yet another EIS on the project and further delays, the Government is committed to building the M5 East. The construction of the M5 East will be fully funded from the New South Wales roads budget. The work is expected to take about four years to complete. There will be no toll on the M5 East.

MOTORWAY TOLL REBATE SCHEME

The Hon. M. R. EGAN: On 7 April the Hon. Helen Sham-Ho asked me a question without notice relating to the motorway toll rebate scheme. The Minister for Transport, and Minister for Roads has provided the following response:

The cashback scheme has provided an average $560 per claimant per annum for the commuters of western Sydney. Rebates commenced in the first quarter of 1997 and the number of users has increased steadily since then. All eligible claims will be paid. Given the recent admission by the Leader of the Opposition, Mr Collins, that the Opposition would not change cashback, any criticisms of the scheme by the Opposition cannot be taken seriously. When the cashback scheme was announced, action was taken to ensure that information on how the scheme operated was available to people of non-English speaking background. In this respect, advertisements in ten community languages were placed in the press to facilitate awareness and understanding of the scheme. The present position is that the Roads and Traffic Authority has staff with non-English speaking backgrounds on its customer service team, which supports the scheme. These staff members can appropriately advise people with non-English speaking backgrounds on the operation of the scheme.

ACCOMMODATION OF MR ERNEST EDWARD GREIG

The Hon. R. D. DYER: On 31 March the Hon. J. H. Jobling asked me a question without notice concerning the accommodation of Mr Ernest Edward Greig. I am advised by my colleague the Minister for Health that:

Mr Greig was found not guilty by reason of mental illness of the 1994 killing of a patient in a ward at Morisset Hospital. The most appropriate place for his care to date has been the Kestrel unit of Morisset Hospital. This unit houses forensic patients and other patients whose behaviour has not proven to be manageable in more open settings. His case is regularly and comprehensively reviewed by the Mental Health Review Tribunal. Arising from those reviews, the medical superintendent of the hospital has been empowered to grant Mr Greig leave in the company of his family when they feel able to care for him. The matter of Mr Greig's placement will continue to be kept under careful review.

MILLENNIUM BUG

The Hon. R. D. DYER: On 31 March the Hon. Dr B. P. V. Pezzutti asked me a question without notice concerning the effect of the computer millennium bug on medical machines and equipment. The Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs has provided the following response:

The impact of the year 2000 date problem on the computer systems supporting the administration and clinical functions of hospitals and New South Wales Health has long been recognised. New South Wales Health has a multifaceted project in place to both assess and address any problems that may be caused to both medical and administrative systems. The results of assessments and tests conducted to date indicate that very few items of equipment are likely to have their functionality affected by the problem, and the vast majority of those can be rectified to eliminate any impact. Any impact is principally on recording functions rather than clinical functions for most of those few items of medical equipment.

GAMING VENUE AUTOMATIC TELLER MACHINES

The Hon. R. D. DYER: On 31 March the Deputy Leader of the Opposition asked me a question without notice concerning automatic teller machines in gaming venues. The Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development has provided the following response:

I am aware of reports of a judgment in the county court in Victoria in February where comments were reportedly made by Judge David Morrow about the location of automatic teller

machines in gaming venues. The comments were reportedly made during a case when a woman was sentenced to a gaol term for stealing to facilitate her apparent gambling addiction. In sentencing the women, Judge Morrow reportedly said "It seems . . . dangerous to allow automatic teller machines on the same premises as gambling machines." The present position in New South Wales gaming venues in respect of controls over the placement of automatic teller machines—ATMs—is as follows:

- THE SYDNEY CASINO

  Section 74(3) of the Casino Control Act 1992 provides that it is a condition of the casino licence that an automatic teller machine or any like device is not to be installed within the boundaries of the casino.

- REGISTERED CLUBS and HOTELS

  There are currently no restrictions on the placement of ATMs or like devices in registered clubs and hotels.

I am mindful of the concerns which have been expressed generally about the placement of ATMs and like devices on registered club and hotel premises. However, any steps to require their removal from those premises would be likely to significantly disadvantage many patrons who require ready access to cash to take part responsibly in the many activities offered by clubs and hotels, and who wish to have that access in a secure environment. It would also be expected to particularly disadvantage country and regional patrons who more and more rely on cash dispensing facilities located within clubs and hotels as the numbers of bank shopfronts in those regions diminish.

Nevertheless, my Department of Gaming and Racing—through the quarterly *Liquor and Gaming Bulletin*—has informed all registered clubs and hotels of the general desirability of placing ATMs and like devices away from the specific gaming areas of those venues as a responsible service of gambling measure. This was reinforced by the publication of a brief report of Judge Morrow's comments in the March 1998 edition of the bulletin. Additionally, I am presently considering bringing forward new statutory controls—as part of a broader package of gambling 'harm minimisation' reforms—over the placement of ATMs and like devices within the specific gaming areas of clubs and hotels. These controls would balance the particular security and viability concerns of individual premises with the need to ensure that the harms caused by problem gambling are minimised.

STAR CITY CASINO REPORT

The Hon. R. D. DYER: On 31 March Reverend the Hon. F. J. Nile asked me a question concerning a report by the Casino Control Authority on the Sydney casino licence. The Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development has provided the following response:

The Casino Control Act 1992 requires that an investigation be undertaken at least once every three years to determine whether or not:

- the operator of Sydney's casino is a suitable person to continue to give effect to the casino licence and the Act; and

- it is in the public interest that the casino licence should continue in force.

The authority's investigation for the 1997 triennium was completed in December 1997. On behalf of the Government, I released the authority's report of its investigation on 3 March. On the key issues, the authority's report—which was prepared for the authority by Mr Peter McClellan Queen's Counsel—concluded that Star City—as the licensed casino operator—was a suitable person to continue to hold the casino licence. The report also concluded that it was in the public interest that the casino licence should continue in force.

I am pleased to confirm that the authority's report discussed particular issues of crime associated with the casino, in part prompted by the media publicity that is given to these issues. The report concluded that there are appropriate measures in place to co-ordinate law enforcement and casino operations so that loan sharking or other undesirable activity is discouraged. At the same time, Mr McClellan observed that it is essential for relevant law enforcement and related agencies to be vigilant in exercising their responsibilities and in expeditiously bringing matters to the authority's attention so as to ensure that the authority is able to properly exercise its co-ordinating role on casino crime issues.

I am assured that the authority is carefully monitoring this situation. Notwithstanding, I have requested the authority to advise me promptly of major issues that arise in this regard. This request operates in addition to the requirement that the authority report to me at regular monthly intervals.

Mr Nile should also be aware that the Government has determined to not proceed with one of the proposals in the authority's report at this stage. The report's recommendation for transferring administrative responsibility for supporting the Director of Casino Surveillance from the Department of Gaming and Racing to the authority has been placed for reconsideration at a later date in light of the Auditor-General's forthcoming report on Government surveillance of casino operations.

In all other respects, the Government is implementing the recommendations of Mr McClellan's report. On particular casino crime and related issues for example, I have approached governments in other Australian jurisdictions with a view to obtaining consistency in the exclusion of undesirable persons from casinos.

Mr McClellan also suggested that the Government should approach the Commonwealth Government and request an amendment of the Financial Transaction Reports Act 1988 to permit casino regulators to obtain information regarding cash transaction reports relating to casinos. I have raised this proposal with Senator the Hon. Amanda Vanstone, the Federal Minister for Justice, and am presently awaiting her response.

Another issue raised by Mr McClellan—the monitoring of casino gaming during the first 12 months operation of the permanent casino—is being considered by the authority on a monthly basis. The authority has also arranged for this issue to be considered at the next annual conference of the Australasian Casino Regulators.

The impact of the casino on local crime is being examined by the authority in consultation with other local authorities,

including the Darling Harbour Authority and the City West Development Corporation. Local police are also involved in this process.

Mr Nile may be assured that the Government will continue to address casino crime issues in an effective and appropriate manner.

BLACKTOWN HOSPITAL ORTHOPAEDIC WARD

The Hon. R. D. DYER: On 31 March the Hon. J. F. Ryan asked me a question without notice concerning Blacktown Hospital orthopaedic ward. The Minister for Health, and Minister for Aboriginal Affairs has provided the following response:

The Western Sydney Area Health Service is currently considering a proposal to reconfigure beds and wards into more defined surgical and medical components.

If the proposal proceeds there would not be a closure or reduction of orthopaedic services at Blacktown Hospital. The area proposed to be vacated by the orthopaedic service would be available for accommodation of non-surgical patients under a reconstructed bed and ward arrangement. Orthopaedic surgical patients would be transferred from the area in which they have traditionally been accommodated to another surgical ward within the hospital.

The proposed realignment of beds and wards at Blacktown Hospital will not result in any restrictions on existing levels of surgical activity, including orthopaedics, but will enhance operational management and efficiency and provide improved bed predictability for both surgical and medical patients alike.

These arrangements will enhance existing services in the current building and will facilitate a smooth transition into the new Blacktown Hospital due to open early in 2000.

THE HONOURABLE PHILIP RUDDOCK ALLEGATIONS

The Hon. R. D. DYER: On 1 April the Hon. Dr Marlene Goldsmith asked me a question without notice concerning allegations about the Hon. Philip Ruddock. The Minister for Health has provided the following response:

1. No.

2. Yes.

3. The Minister is aware that the Hon. Philip Ruddock travelled overseas with Mr Ngo.

4. No.

EMMDALE WATER SUPPLY

The Hon. R. D. DYER: On 1 April the Hon. M. R. Kersten asked me a question without notice concerning Emmdale water supply. The Minister for Land and Water Conservation has provided the following response:

As a longstanding policy, Government assistance for water cartage for town supplies is available only to water supply authorities (usually Local Councils or Water Boards).

Emmdale Roadhouse is a single private establishment some 100km east of Wilcannia, within the Shire of Central Darling. Central Darling Shire Council is the water supply authority for the shire.

The Department of Land and Water Conservation has indicated that it would be prepared to consider a request from the Central Darling Shire Council for assistance with water cartage to Emmdale.

Central Darling Shire Council has indicated to the Department of Land and Water Conservation that it is not in a position to assist Emmdale with water cartage and seek subsidy assistance from Government.

Should Mr Garbacz, the owner of the roadhouse, wish to further discuss this situation he should contact Central Darling Shire Council in the first instance.

CASTLEREAGH TIP QUARANTINE WASTE DUMPING

The Hon. R. D. DYER: On 7 April the Hon. Elisabeth Kirkby asked me a question without notice concerning the dumping of waste at Castlereagh. The Minister for Agriculture has provided the following response:

(1) I am aware that following the closure of the Waverley waste incinerator the Australian Quarantine and Inspection Service (AQIS) developed alternative procedures for the deep burial of untreated quarantine food waste that enters Sydney on international aircraft and ships.

(2) Following the introduction of these procedures the Director-General of Agriculture wrote to the Secretary of the Department of Primary Industries and Energy concerning various aspects of the disposal procedures. Also since their introduction officers of New South Wales Agriculture have liaised with AQIS staff and monitored operations to ensure that the waste is disposed of safely, to minimise the disease risk to agriculture.

(3) The projected closure of the Castlereagh tip has led to the rapid development of alternative procedures for safe disposal of quarantine waste in Sydney. As from 9 April this year all quarantine waste taken from international aircraft and ships has been sterilised by autoclaving, or in a macerator/steriliser, prior to dumping. The handling and treatment of the waste, by commercial operators, is controlled and supervised by AQIS. Officers of New South Wales Agriculture will continue in a liaison and monitoring role with AQIS, to minimise any disease risk the waste poses to agriculture.

POKER AND CARD MACHINE TAKINGS

The Hon. R. D. DYER: On 7 April the Deputy Leader of the Opposition asked me a question without notice concerning poker and card machine takings. The Minister for Gaming and Racing has provided the following response:

In regard to the recent debate concerning comments on poker machine fraud, I can advise that I have already apologised to the Registered Clubs Association and the Club Managers Association.

Both apologies were made unreservedly and I now regard the matter as closed.

DROUGHT TRANSPORT ASSISTANCE SCHEME

The Hon. R. D. DYER: On 7 April the Deputy Leader of the Opposition asked me a question without notice concerning the drought assistance scheme. The Minister for Agriculture has provided the following response:

(1) The decision to end drought transport subsidies was taken by the former NSW Government in 1992 when it agreed to the National Drought Policy. This decision was honoured by this Government on 31 December 1997 when there was a historically low 28 per cent level of drought in New South Wales.

The issue has been carefully considered. Investigations indicate that the scheme was neither fair or effective when less than 20 per cent of commercial livestock producers in New South Wales accessed the scheme. The scheme was based on a drought declaration system which has been demonstrated to be highly inconsistent and failing to recognise the variability and dry seasons which are a natural part of the Australian environment.

(2) No. The assistance measures recently announced by the Premier are effective support to assist producers to upgrade water supplies and distribution systems. This will make a very definite contribution to long-term security of water supplies to producers as well as assisting in the current water shortages in many areas.

Other measures are targeted to assist producers in managing drought and to implement conservation tillage programs.

Immediate financial assistance has also been made available by provision of funds to the charities which provide family support where required.

All of this assistance is on top of $18 million already spent or committed by the New South Wales Government this financial year alone on specific drought related assistance measures ranging from the State's share of Exceptional Circumstances payments, stockwater; conservation tillage equipment, fodder infrastructure, better use of climate intelligence and alternative forage initiatives, to counselling and restructuring assistance.

As part of the package the Premier also announced the appointment of Mr Geoff File as the Government's Drought Relief Coordinator. Mr File is meeting with farmers across the State in consultative meetings to provide the Government with a first hand assessment of the current situation and the need for assistance. Mr File is due to report back to Cabinet by 6 May 1998.

AERIAL CROP SPRAYING

The Hon. J. W. SHAW: On 31 March the Hon. I. Cohen asked me a question without notice concerning aerial spraying. The Minister for the Environment has provided the following response:

This Government is committed to ensuring that pesticides are used responsibly.

The Environment Protection Authority (EPA) has funded mediation of pesticide issues at Middle Pocket on the north coast. Participants included Middle Pocket residents, banana growers and aerial sprayers.

Community concerns about aerial spraying of bananas were addressed during the mediation process, particularly in relation to the potential impacts on the health of children at school bus stops in the Middle Pocket area. Consequently, community members agreed to trial a protocol for aerial spraying of bananas for the 1997-1998 spray season. The agreement involves notification arrangements, sign installation, limitations on the timing of aerial spraying in a key area and a review of the process at the end of the spraying season.

The agreement also includes a mechanism within the local community to deal with disputes concerning the implementation of the protocol for this spray season. Residents of Middle Pocket can use this mechanism if they feel that aspects of their agreement are breached. There will be an opportunity for community members to finetune the agreement at a meeting in June this year.

In addition to facilitating and funding the mediation process (which was estimated to cost the EPA $22,000), the Government has provided other significant resources to assist the north coast communities in the management of pesticides. Specifically, an additional pesticides inspector position has been provided for in the north coast region.

In relation to spraying near school buses, the EPA has also written to all pilots and aerial operators in the State to remind them of their responsibilities before and during application of pesticides. In particular, the EPA emphasised the need to ensure that spraying activities do not risk injury to people waiting at bus stops, for example.

Regarding the Pesticides Act, the EPA has conducted a statewide consultation on possible amendments to the Act. Consultation workshops were well attended and over 120 written submissions were received. Input from the community is being carefully assessed to ensure that the revised proposals address the concerns of all stakeholders. Concerns regarding notification of aerial spraying are being considered as part of the review.

I trust you will agree that the initiatives being progressed by this Government are working to ensure continuing gains in the appropriate use and management of pesticides.

RURAL PETROL PRICES

The Hon. J. W. SHAW: On 1 April the Hon. J. S. Tingle asked me a question without notice concerning rural petrol prices. The Minister for Fair Trading has provided the following response:

The Department of Fair Trading does not monitor petrol prices in New South Wales. I am therefore not in a position to confirm the prices mentioned by the Hon J. S. Tingle MLC in his question.

The Commonwealth Government, through the Australian Competition and Consumer Commission (ACCC), is responsible for regulating wholesale petrol prices. However, the determination of retail prices is left to market conditions.

Inquiries undertaken by both the State and Commonwealth Governments into petrol pricing have concluded that price disparities can be explained by differences in the cost of transporting fuel, differences in the level of local retail competition and volume turnover.

Colluding to artificially inflate prices through computer control of bowsers may be in breach of the Commonwealth's Trade Practices Act. The Department of Fair Trading will immediately refer evidence of such activity to the ACCC for investigation.

PRISONER PAUL WAYNE LUCKMAN

The Hon. J. W. SHAW: On 1 April Reverend the Hon. F. J. Nile asked me a question without notice concerning a prisoner, Paul Wayne Luckman. The Minister for Corrective Services has provided the following response:

Luckman/Pearce's life sentence was redetermined by the Supreme Court in 1993, under the previous Government's truth-in-sentencing legislation, to a minimum term of 16 years with an additional term of 8 years. Luckman therefore becomes eligible for parole on 5 May 1998.

Gender reassignment and hormone therapy are matters for the Corrections Health Service, which falls within the portfolio of the Minister for Health. However, I am advised that Luckman/Pearce commenced hormone treatment in 1989 when the Hon. Peter Collins MP was Minister for Health. I am further advised that inmates are no longer permitted to commence any treatment of this kind while they are in prison.

At its initial meeting on 21 April 1998, the Parole Board formed an intention to refuse Luckman/Pearce's application for parole. A parole hearing has been set down for June 12 1998 to hear submissions. Staff of the Department of Corrective Services Victims Register have been providing advice to the Aston and Ryan families on their submissions. The State has already lodged a submission opposing parole.

DEPARTMENT OF COMMUNITY SERVICES NORTH COAST MOTOR VEHICLE POLICY

The Hon. J. W. SHAW: On 7 April the Hon. Dr B. P. V. Pezzutti asked me a question without notice about staff morale in the Department of Community Services on the north coast, resulting from a new motor vehicle policy. The Minister for Community Services has provided the following response:

(1) The Minister has received a letter on this matter.

(2) The Minister will be responding to the letter in due course.

(3) No, it is proof of sound financial management.

DEPARTMENT OF COMMUNITY SERVICES DIRECTOR-GENERAL Ms HELEN BAUER

The Hon. J. W. SHAW: On 1 April the Hon. Patricia Forsythe asked me a question without notice concerning the former Director-General of the Department of Community Services, Ms Helen Bauer. The Minister for Community Services has provided the following response:

(1) No.

(2) Not applicable (refer to previous answer).

(3) Confirmed.

Questions without notice concluded.

MOTOR TRAFFIC AMENDMENT ACT: DISALLOWANCE OF MOTOR TRAFFIC AMENDMENT (FEES AND CHARGES) REGULATION 1997

Personal Explanations

The Hon. ELISABETH KIRKBY, by leave: Last week during the debate on the Disallowance of the Motor Traffic (Fees and Charges) Regulation the Hon. D. J. Gay said that at least Reverend the Hon. F. J. Nile was honourable in the reasons that he gave for voting the way he did, suggesting that I had not been honourable. At the time I asked the Hon. D. J. Gay to withdraw the remark and he stated, "I would be more than happy to withdraw them. If she cannot, I will not". The implication could be drawn that Reverend the Hon. F. J. Nile had given reasons for the change. The Hon. D. J. Gay implied that I have no honour because I had given him no prior notice of my intention to vote the way I did. I still believe that it was the wrong inference for him to draw. It was not based on any personal conversation with me or on any agreement that I had made with the Opposition; it was based on a newspaper article that was erroneous.

On many occasions the Australian Democrats have contacted the *Sydney Morning Herald* and the *Daily Telegraph* in order to correct inaccuracies that have appeared in articles. I cannot recall one occasion when such a request has been granted. Honourable members will be aware that it is not easy to persuade the media to correct inaccuracies. A gross inaccuracy in respect of a statement I made relating to a bill currently being debated was reported in the *Sun-Herald* last week. I am attempting to have the statement corrected because it was within quotation marks and it bore no relationship whatever to the remarks I had in fact made that are recorded in *Hansard*. I hope that the Hon. D. J. Gay will now withdraw the implication

about my behaviour because I found it quite wrong and I do not believe it was deserved.

The Hon. D. J. GAY, by leave: I wish to make a personal explanation. My word is my bond. I indicated to the honourable member that if she could show me where she felt I had treated her badly I would rescind that. She has done so regarding the comments I made about Reverend the Hon. F. J. Nile, and if the honourable member feels that way, I unreservedly withdraw those comments. The rest of the honourable member's remarks are outside my purview; they are to do with some other matter.

ASSENT TO BILLS

Assent to the following bills reported:

Land Sales Amendment Bill
Petroleum (Onshore) Amendment Bill

GUARDIANSHIP (AMENDMENT) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. Dr MARLENE GOLDSMITH [5.10 p.m.]: When this debate was adjourned for question time I was beginning to raise concerns and qualifications I have about this bill. The first of those was in the letter received very late in the day, long after our report was completed—indeed, on 7 April this year—from the Christian Science Committee on Publication. I can appreciate that the Christian Science Church would hold the views that it does. Given the overwhelming weight of evidence received by our committee, I do not believe that it would have changed the report. However, I am seriously concerned that the Christian Science Committee on Publication, as it stated in its letter, "only became aware of the [social issues] committee report during the last week"—that is, the week preceding 7 April.

During the hearing process the social issues committee follows an exhaustive process of advertising, of media releases, of public information, of trying in as many ways as possible to let the community know that it is conducting inquiries, because many of those inquiries affect wide-ranging areas of the community and many interest groups. I find it personally very distressing that the Christian Science Committee on Publication was not aware of that exhaustive inquiry process and, as a consequence, had not made a submission to the committee. However, I remain totally puzzled how a parliamentary committee can do more than the social issues committee has done to publicise the process.

Some community education may be needed to ensure that community groups monitor advertisements in the newspapers to see what sorts of parliamentary inquiries are being held so that they may make submissions to those inquiries. For instance, the Office of Film and Literature Classification is currently conducting a review of its operations, and many community groups may not be aware of that. It is a matter of making sure that people find out about these things. I am confident, indeed I know perfectly well, that the social issues committee did all it could to ensure that groups such as the Christian Science Committee on Publications would find out about its inquiry. However, I am extremely concerned that it did not.

I have been informed that those who participate in clinical trials get paid. A concern has been raised with me that those who would participate in clinical trials and who are subject to guardianship orders may not get paid, and that those under guardianship might become a cheap source of people upon whom experiments might be conducted for the pharmaceutical industry. Certainly that does not jibe with the information given to the social issues committee, because the doctors and the ethics committees who are conducting these trials, according to the information the committee was given, have ample numbers of people to call upon for these trials. The problem is not that there is a shortage of people to undertake these trials. The main concern I have is to make sure that those under guardianship do not miss out on their rights, and do not miss out on getting paid in the same way that other people undertaking such clinical trials would get paid.

I call upon the Minister in his reply to this debate to respond to this point. It is important that those under guardianship have access to payment in the same way as other people who are participating in clinical trials. It is important that they not be treated in any other way. If these people were not paid as volunteers, regardless of how good their treatment might be—and that is not at issue—and the rest of the community were, one would see a disproportionate representation of people under guardianship in clinical trials, and that could also create problems. It is important that such people have the same access as other members of the community to treatments that are beneficial, but this should be without any kind of economic distortion.

The third concern I have is that raised with the committee by, I must say, a small group of people.

The Carers of Protected Persons Association testified before and made a submission to the committee. That submission—and the committee received almost 60 submissions—was one of the very few that opposed the proposed legislation. The view I formed of COPPA was that its members—a number of very caring, passionate, concerned people—felt badly treated by the Guardianship Board. They were extremely angry at what had happened to them. Many of the issues they raised were well beyond the ambit of this bill and well beyond the concerns of the social issues committee. However, although the inquiry's terms of reference and time frame precluded the investigation of their grievances, those grievances caused sufficient concern for the committee to recommend:

> The Committee suggests that the Minister for Community Services and the Attorney General take note of the serious public concerns expressed to the Committee about aspects of the operation of the Guardianship Board and officers of the Public Guardian and Protective Commissioner. It is also important for these Ministers to ensure that the public are aware of the appropriate avenues for complaints against these bodies.

I have seen nothing from this Government to address the concerns expressed unanimously by the social issues committee in its report. Had the Government had a considered response to those very serious concerns, agitation about this legislation would be far less than it has been. It is important that people who have serious concerns about the operation of the Guardianship Board have access to the appropriate appeals process. The committee made recommendations in this area. Those recommendations have not been followed through, but they need to be followed through. I am extremely disappointed that the Government has chosen to ignore those recommendations. In this day and age, in a modern, democratic society, in which the principles of transparency and accountability are beginning to be introduced even in government departments—very slowly and painfully under this Government, I must admit—they must be accepted as principles for the operation of bodies such as the Guardianship Board.

When the Guardianship Board makes decisions that are painful for and unacceptable to families, those families must have an avenue of appeal, and an appropriate avenue of appeal. The overwhelming views of those who expressed concerns about this legislation to the committee were that such avenues of appeal do not currently exist. In conclusion, I call upon the Government to implement all the recommendations of the Standing Committee on Social Issues and to take on board the very serious concerns of those who have expressed reservations about the operation of the Guardianship Board, which can only strengthen the validity of this legislation. To simply introduce the legislation in its current form without dealing with those concerns or introducing the safeguards that the Standing Committee on Social Issues recommended is only an invitation to more community anxiety and more community concern.

One can hardly blame many members of the community for being extremely sceptical about this legislation, particularly given the secrecy of this Government and its carriage of other issues that have been a total betrayal of the community. I feel very sad about that. Having gone through the inquiry process, I know that it is good legislation—limited, insufficient, not enough, without the safeguards that we needed to see introduced, but still legislation that is for the benefit of people who are under guardianship orders. With those concluding remarks I reiterate my support for the bill and call upon the Government to implement the other recommendation that will make the legislation far better than it is now.

The Hon. Dr B. P. V. PEZZUTTI [5.21 p.m.]: For the third time I support this legislation. I had the privilege of speaking to the head of Carers of Protected Persons Action—COPPA—Paddy Costa, on the phone when this legislation was initially presented to the Parliament. I have had conversation with her since. My attitude and my position have not changed one bit. Last evening I was waiting for somebody to ring me back and I was watching television until quite late. SBS televised a very sobering film about the way in which so-called chemical experiments were carried out under the nazi regime during the war.

Reverend the Hon. F. J. Nile: And prior to the war.

The Hon. Dr B. P. V. PEZZUTTI: Including prior to the war when they were set up under so-called euthanasia or cleansing operations. I am reminded of that because of a document that came across my desk today from the Citizens Commission on Human Rights.

The Hon. D. F. Moppett: Who are they?

The Hon. Dr B. P. V. PEZZUTTI: I have no idea who they are. There is no name associated with the document, although it was signed by John McGuinness. It begins talking about the horrors of nazi Germany, and it is this sort of legislation that raises the concerns that the Hon. Dr Marlene Goldsmith put to this House again today. It assumes

that the guardian and the people charged by this legislation would act contrary to the interests of their charges and that this legislation has no concern for informed consent. The legislation is redolent of all sorts of safeguards, including informed consent. The fact that the person on whom the clinical trials are being conducted is not in a position to give informed consent should not mean that that person should not have the advantage of the clinical trial going ahead.

People who are suffering from the extremes of schizophrenia are not in a position to give informed consent. Honourable members know that this House passed probably the best Mental Health Act in the world, which allows people to be treated compulsorily against their will. To advise and assure, authority has been given to the lower court to oversee these matters. There are things in place to protect people, but this is a vulnerable group of society. We have come an awful long way since the events surrounding the two vulnerable groups spoken about on the television program last evening. I do not want any honourable member in this House to assume that we are going anywhere near the sort of nonsense that is spoken about in this document.

The Hon. D. F. Moppett: Totally unrelated.

The Hon. Dr B. P. V. PEZZUTTI: Totally unrelated, and I absolutely reject it. The Mental Health Act was reformed to stop abuses. Last evening I saw film footage of perfectly healthy children going to the gas chambers because they looked a bit different. Nobody asked for their consent. There was no process of informed consent or of treatment, except murder. We are not talking about anything like that here and I do not want that sort of comment in this place.

Clinical trials are conducted because somebody gets a bright idea that a drug, a substance, an apparatus or an operation could be helpful. It is not just an idea that comes to them in the night. That may well be the basis of the inspiration, but to give life to that clinical trial requires an awful lot of background research to check that such a trial has not been previously done and a careful study of the trial's design and any benefit that it is intended to achieve. All of that work goes ahead and then people have to convince a funding body that the trial would be appropriate to fund. The funding body may be the company that the person is employed with, if one happens to be working in a scientific branch or the research and development branch of a major corporation, or funds might be sought from government or corporate organisations that give money for research, in medicine or whatever.

Before funding and approval are given for a trial, it has to be considered by an ethics committee. I want to spend a little time on ethics committees because the report by the National Health and Medical Research Council on the operation of ethics committees is one and one-quarter inches thick. That document sets out who is to be on them, what their responsibilities are, their requirements to consult, and so on. Most major research institutions based at our major public hospitals, Westmead for example, have formal ethics committees. On these committees are to be found scientists, lawyers, members of community, ministers of religion and recognised ethicists.

It was nothing short of appalling that the Hon. Franca Arena today had the gall to say that an ethics committee could be bought for two bob. Those people give their time for free. What a kick in the face for an organisation that is trying to do nothing else but help the community. Evidence of corruption in any ethics committee in this State, if anyone has such evidence, should be taken to the police or the Minister for Health, to a major funder of research in this State, or to the Commonwealth Government. Such evidence could be referred to the NH&MRC, which also is at arm's-length and could expose it. If there is to be any talk about ethics committees being corrupt or conducive to corruption, there had better be some evidence of that. I will not have people who work in those organisations, people who work as ethicists, being criticised by ignorant people who do not know, and have not bothered to go to see, how they operate. It is unacceptable to scare people. We in this place have to be responsible on issues such as this.

An ethics committee has to decide whether there is a benefit to be gained and what that benefit is. There has to be good expectation of a hoped-for benefit, and it has to be demonstrated. If a benefit is to be gained, will that benefit make a difference to the person concerned? For people who have had a stroke, for example, the benefit may be better control of their blood pressure. In order to answer whether that benefit will make a difference one would need to refer to current literature. On current research, the answer would be yes, to lower the risk of stroke it is of benefit to better control blood pressure, and that benefit would make a difference to a patient's long-term health. The Hon. I. Cohen talked about risk. A clinical trial to determine whether a particular treatment or procedure will benefit people who are incapacitated or are not able to make up their own mind about something can only be undertaken by such people.

The Hon. D. F. Moppett: It is no good doing the trial on anybody else.

The Hon. Dr B. P. V. PEZZUTTI: Yes, there would be no point in my taking part in the trial; I am healthy. The trial would need to be undertaken by someone who has had a stroke or who has another incapacity—a shake, a rigidity or an inability to understand or to hear, for example.

The Hon. Patricia Forsythe: Cognitive reasoning.

The Hon. Dr B. P. V. PEZZUTTI: Yes, there would be no point in people who already have cognition taking part in such a trial. It would be impossible to get those to whom I have referred to consent to such a trial. The community expects that those people will not be abused as happened during the nazi era to people who did not have disabilities. People are not to be used as guinea pigs to determine whether their eyelids go red if make-up is applied to them. They should only be used in trials that might benefit people in their circumstances—and of course they are the only people whom it is of value to use in such trials. Generally speaking, trials would be undertaken of pharmacological drugs that have been used for other purposes or that have been developed through the usual process approved under the Therapeutic Goods Administration for those purposes.

The next issue is whether in such a controlled and randomised trial some of those taking part should be given a placebo. This issue is particularly covered in the legislation, and for good reason. I have made the following point when speaking to the report, and although it is tedious to have to keep repeating oneself, people tend not to understand these points. Suppose I wanted to conduct a trial to determine whether a particular drug made a difference to or benefited a group of 20 people who had a disability or a cognitive problem. Those 20 people would be under intense scrutiny—they would be visited two or three times a day, checks would be made—and they would receive more attention than if they were not taking part in a trial. That attention alone could make a big difference. It is therefore important in trials to separate the effects of that attention from the efficacy of the drug.

If the drug were thought to be a wonder drug that would work for everyone, it might be asked why the drug was not given to everyone who had the problem. Of course, that is the reason for a study. Sometimes people criticise the giving of a placebo to some of those taking part in clinical trials. A placebo should make no difference at all, it should neither help nor harm. A placebo is usually an injection of water with a little salt in it or a tablet with a little sugar or salt in it, or a sham procedure. The attention that goes with a trial can make a difference. In order to determine the difference that a drug or a procedure makes, one has to take into account the different impact being made, which is why the placebo is terribly important.

Someone might say that he has given vitamin E, for example, to a person who has rigidity or mental disability and that it has made a difference. That person might ask neighbours or friends why they have not given vitamin E to someone in their care. So the stories start, and soon other people feel pressured to give vitamin E to those in their care. It is necessary to have evidence that a treatment or a procedure makes a difference. Of course, sometimes there is no evidence. The only way we can determine whether a difference is achieved by the application of a procedure or the giving of a drug is to undertake a trial in which people who have similar problems—and have a commonality of sex, age, length of disease and other circumstances—are tested with and without the treatment, that is, they are given either a drug or a placebo. That is why this legislation is vital and why we have to go to the trouble of spelling it out.

During the preparation of the legislation I was disturbed when some measures were dropped because of concerns raised by a small number of people. The Opposition supported the legislation going to the committee, which did a fine job as quickly as possible. Those who had concerns were able to express them before the committee, and in turn they were expressed before the Parliament—it was a completely democratic process. The committee report notes carefully what was submitted to the committee. I was concerned because a large volume of very important work by research teams that have now dispersed was held up.

The Hon. R. D. Dyer: You wrote to me about that.

The Hon. Dr B. P. V. PEZZUTTI: Yes, I did. To my way of thinking, if trials could not be provided for by this legislation because it was in limbo we should have been able to follow the legislation that was already in place. Unfortunately, the Minister advised me that was not possible because a study that would have gone ahead under the present Guardianship Act could no longer go ahead. The Minister was cautious, properly so, and I was not critical of him. I simply begged him to find a way that important work being done by Professor Michael Fearnside at Westmead Hospital could go ahead. Professor Fearnside had gathered a team and had obtained funding, which is difficult these days. His work was being undertaken upon a group of

people who are often not high on the pecking order for research or funding, to say the least—they are not cuddly little babies. Professor Fearnside had obtained funding and had a team ready, but the introduction, and then the stalling, of this legislation prevented progress, which was a shame.

That delay has resulted in a great disadvantage for a number of procedures, but the regulations to be put in place under this legislation will enable research teams to resume their work. There are sins of omission and sins of commission, and the Hon. Franca Arena seeking to delay the legislation again would only hurt the very people the honourable member tries to protect. A delay in this legislation would disadvantage those who are already most disadvantaged. When nothing that is being done is proving to be of benefit, most families are very keen to have something done for their family members. We all live on hope. We do not want to see people taken down the garden path to see quacks, spiritualists and whatever, to be told to take coloured water and the like because that is supposed to work and they will try anything. The tragedy of Steve McQueen rushing off and having coffee enemas was appalling. Informed consent by the guardian is a real need. As I understand the process, informed consent will follow discussions and disclosure to relatives. Plenty of people who desperately need help and are keen to participate can be involved in clinical trials, and not necessarily against the wishes of their concerned relatives.

I urge the House to pass this legislation. Other concerns about the guardian—for example, who decides how a patient's money is to be spent and who authorises expenditure—are separate issues for the Protective Commissioner and have nothing to do with this legislation; they can be discussed on another day. The legislation providing for a full review of the Guardianship Board was introduced and passed by the Unsworth Government but because it cost money it was only promulgated by the Hon. Virginia Chadwick when she was Minister for Community Services. That was a huge step forward in this State. As promised, the legislation was reviewed after five years and a number of changes were made. If more changes are needed, let us make them.

We will never make this legislation perfect and it is no good sitting on our hands and waiting until we do. Times change, people change and needs change. The Parliament has to do what it can now, as imperfect as the process and human beings are, to put protections in place. Society is different from what it was 20 or 30 years ago: expectations are higher and higher; communities demand more and more, and people with disabilities have more and more spokesmen than in the past. We should deliver for these people the very best research we possibly can, as is expected by people with other conditions. They are a most difficult group to raise money for research for, but they should not be left behind in the search for new treatment and a proper understanding of their condition. Today I urge the House to pass this legislation.

Reverend the Hon. F. J. NILE [5.42 p.m.]: The Christian Democratic Party voted to adjourn debate on the bill because a number of people are concerned about it. The role of Parliament is to do all it can to meet those concerns and to reduce them. Parliament cannot simply say that it does not really care about these people, there are only a few of them, so rather than deal with their fears it will pass the bill. That is not the way the Parliament should treat this most sensitive group in our society.

The object of this bill is to amend the Guardianship Act 1987 to provide a mechanism that will allow the Guardianship Tribunal to approve certain clinical trials in which persons who lack the capacity to consent to their own medical and dental treatment may participate. The Hon. Dr B. P. V. Pezzutti referred to "informed consent" but the bill provides that "persons who lack the capacity to consent to their own medical and dental treatment may participate". That is not informed consent; they cannot consent.

I do not know whether it is coincidental that the documentary to which the Hon. Dr B. P. V. Pezzutti referred was shown on the Special Broadcasting Service channel last night. I saw the program and it stopped me in my tracks. The Hon. Dr B. P. V. Pezzutti said that these things happened in nazi Germany but it struck me that the doctors were not nazis but highly trained specialist doctors. I do not know what they thought about Hitler or nazi dogma.

The Hon. I. Cohen: They were nazis; they supported the nazi regime.

Reverend the Hon. F. J. NILE: They were part of the medical profession and did not indicate any political ideology. They saw an opportunity to experiment on living people and in a number of cases to take the lives of people. I inform the Hon. Dr B. P. V. Pezzutti that I understand nazi dogma, but the documentary pointed out that that they were respected doctors who sent parts of executed people to respected research institutions in Germany prior to the war. They experimented not on Jews but on children who had been reported as having mental or

physical disabilities. I am concerned that some people in Australia—

The Hon. I. Cohen: They stand for the nazi philosophy of killing Jews and homosexuals, the exact same philosophy that believes that people who are supposedly physically imperfect should be killed. It is all part of the nazi philosophy. I find it extremely offensive for Reverend the Hon. F. J. Nile to separate those elements. The philosophy has to be looked at all the way through.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! Reverend the Hon. F. J. Nile has the call.

Reverend the Hon. F. J. NILE: I accept that they could have unknowingly followed nazi philosophy.

The Hon. I. Cohen: Not unknowingly at all. They knew what was going on.

Reverend the Hon. F. J. NILE: I am not defending these people, I am making a point that in the 1930s respected, highly regarded people—

The Hon. I. Cohen: The reality is that they were consciously supporting the nazi racial superiority philosophy. If Reverend the Hon. F. J. Nile cannot see that, he has no idea of what happened in nazi Germany.

Reverend the Hon. F. J. NILE: These were respected doctors in Germany working in the leading hospitals and other places. The documentary showed that small gas chambers erected outside German hospitals and mental institutions are still standing today. We must always take into account that people can be so carried away with their profession that they lose sight of the moral questions involved in what they are doing. It may have been coincidental that the documentary was shown last night but it reinforced the need for safeguards in any legislation.

As the report of the Standing Committee on Social Issues said, and as a number of members in the Legislative Assembly and the Legislative Council reiterated, the bill should proceed only if there are certain safeguards. On my examination of the bill, very few safeguards have been included in the bill. When the Minister for Community Services, Mrs Lo Po', introduced the bill in the Legislative Assembly on 4 April she emphasised the protection that would be provided by the ethics committee. She said:

> As recommended by the Standing Committee on Social Issues, the ethics committees which must approve the clinical trial as a condition to the Guardianship Tribunal giving its consent will have to be institutional ethics committees registered with the Australian Health Ethics Committee. If the tribunal does give consent to those who cannot consent to their own treatment gaining access to new treatment through a particular clinical trial, the tribunal can then decide whether to empower persons responsible to give or withhold consent to particular individuals taking part in the trial.

At page 39 of its report the committee noted specific concerns about institutional ethics committees. The Hon. Dr B. P. V. Pezzutti was critical of the Hon. Franca Arena, but her comments reflect the criticisms in the committee's report. The results of the committee's investigations and the evidence it took were critical of the inadequate monitoring of clinical trials, poor accountability, an unrepresentative committee membership, and a lack of experience and expertise in smaller institutional ethics committees. While these concerns were discussed in the report, no useable solutions were offered for the tribunal's reliance on them, particularly on reporting and accountability issues. Mr Nicholas Tonti-Filippini, who gave evidence to the committee, said:

> Ethics committees do not have an open process. They do not call for nominations generally, so the administrator of an institution sort of hand picks the members of the committees.

In the other place the honourable member for North Shore, the shadow minister for health, said that the Opposition had reservations about the process. She said:

> The social issues committee recommended that an appeal system under the Administrative Decisions Tribunal be put in place but that tribunal is not yet operational, despite the Parliament agreeing to its establishment almost a year ago. I would appreciate the Minister's comments on the committee's recommendation relating to an appeal system. The Opposition will not oppose this bill.

The shadow minister raised those concerns but said that the Opposition would support the bill. She pointed out that the Standing Committee on Social Issues sought a whole package of certain safeguards, but it appears that those safeguards are not yet in place. On 29 April the Hon. Patricia Forsythe said:

> Finally, I note that recommendation 18 of the report of the Standing Committee on Social Issues calls for the creation of an appeals division of the Administrative Decisions Tribunal to hear appeals against the Guardianship Board. That would certainly go some way to appeasing some of those who object. However, despite the House agreeing last year to establish the Administrative Decisions Tribunal, one is well entitled to ask what is happening about its establishment.

The Hon. Dr B. P. V. Pezzutti: That is a matter for the Hon. Jeff Shaw.

Reverend the Hon. F. J. NILE: My point is that Parliament is debating legislation that does not include the protection that the social issues committee considered to be essential for its overall approval of the process. We cannot simply blame the Government; all members of the House have a responsibility not to pass the bill until the Attorney General puts certain things in place. It may be a simple process to do that, maybe it could be done next week, I do not know. The process may not delay the passage of the bill to any great degree, but there is no sign of it happening. The Hon. Patricia Forsythe continued:

> I know that Carers of Protected Persons Action Group and others who oppose this bill would be far happier if an appeals mechanism were in place.

That is my point: it is no good ridiculing concerned people who expected things to have been done that were not done. People may have some objection or resistance to the legislation as it stands. The Hon. Patricia Forsythe also referred to the concerns of the Christian Science Committee in New South Wales, and said she could not understand how that committee could not have been aware of the committee's inquiry. It is easy to say that interest groups ought to look through advertisements in newspapers, but, because of limits on expenditure, committee advertisements are small and are usually buried among many other advertisements. In every committee on which I have been a member I have said that that committee has a responsibility to write to all groups that might have an interest in its inquiry.

Maybe the committee did write to interest groups but obviously the Christian Science Committee was overlooked. Perhaps that group is not included on any parliamentary list, but it is not good enough for Parliament to say, "You missed the advertisement; too bad!" Parliament has a responsibility to take notice of the concerns of the Christian Scientists, who have strong religious objections to various medical procedures, including clinical trials. It may be that there could be some basis for a conscientious objection provision for certain groups. Personally I do not agree with the views of the Christian Science or the Jehovah's Witness organisations, but Parliament is for all people and must acknowledge that some groups have concerns. How does Parliament meet those concerns?

Some criticism has been levelled at the Carers of Protected Persons Action Group. Some groups become emotional about certain matters, but we cannot remove emotion from such a sensitive issue. The Carers of Protected Persons Action Group and the Medical Consumers Association criticised the committee for failing to produce any real evidence that the amendment is necessary. The MCA was critical of the ways in which the committee conducted its investigation.

Because of the large number of committees that have been established it is sometimes hard to get committee members to attend every hearing. If members of the public attend a hearing and see that only a quorum is present they could be justified in believing that, as not all the members were present at all committee hearings, perhaps the committee has produced a report that has not been fully understood by all committee members. That does create problems. The report of the committee cited evidence from Mr Nicholas O'Neill as follows:

> Why should a distant and previously unknown board have to decide this matter and the family have no say in it? . . . We still believe that they [the family] are the people who will know far better the wishes and desires of the person who can no longer consent to his or her treatment and have a better idea of his or her interests.

In addressing the committee Dr Bernadette Tobin said:

> To give that responsibility to some bureaucratic body is really too dangerous. That body is, with the best will in the world, likely to be influenced by the priorities of the researchers and the priorities of the researchers are not always in harmony with the needs of individual people.

That is the point I was making when I referred to last night's SBS documentary. Much time could be spent referring to some of the tragedies that have occurred in the treatment of individuals—sometimes without their consent—such as the deep-sleep treatment and the activities of Dr Bailey, who thought he was performing some benefit to his patients. For many years his patients have brought their concerns to us. One submission contained some criticism and quoted the Hon. Dr B. P. V. Pezzutti in *Hansard* of 1 April:

> During the course of the inquiry I was importuned by a number of my medical colleagues to do something about the trials which were in progress.

One must ask: what trials were in progress when related legislation was still being debated and were some of those people involved?

The Hon. Dr B. P. V. Pezzutti: They have consent already under previous legislation.

Reverend the Hon. F. J. NILE: But it raises concerns. The Hon. Dr B. P. V. Pezzutti can respond to that statement. The Christian Democratic

party acknowledges that its members are not medical specialists, though it receives advice from medical specialists. When widespread community concerns were raised, more efforts should have been made to put in place some safeguards, for example the appeals mechanism. I urge the Government to give this matter its earnest attention. That might reduce public concern over this legislation.

The Hon. D. F. MOPPETT [6.01 p.m.]: I made clear my views about the Guardianship Amendment Bill in the take-note debate on the report of the Standing Committee on Social Issues. The shadow minister for health, the honourable member for North Shore in another place, and the shadow minister for community services were somewhat more guarded in their support for this legislation, though they urged its passage. During the take-note debate I called upon the Government to reintroduce this measure as soon as possible and promised that I would give it my unqualified support. I stand behind those words. There is good reason for this House to pass the changes to the Guardianship Board. In the light of objections by various speakers, which particularly inspired the Hon. Franca Arena to move the adjournment of this legislation for further consideration—

Reverend the Hon. F. J. Nile: Because of her concerns or because of the objections?

The Hon. D. F. MOPPETT: Because of the expressed concerns—I thought it appropriate to remind the House of a quotation I am sure I have used before, but it is almost a guiding rubric for politicians. Following his election in 1774 that famous British parliamentarian, Edmund Burke, said to the electors of Bristol:

> Your representative owes you, not his industry only, but his judgement; and he betrays, instead of serving you, if he sacrifices it to your opinion.

Those remarks are relevant to the various injunctions that were made when this legislation was introduced. However, in the light of those ill-informed anxieties and criticisms of the bill it was appropriate to defer debate so that an appropriate body could give it careful consideration. That body was the Standing Committee on Social Issues. When the committee report was published, tremendous publicity was given to its findings. It would be wrong to say that anyone had good reason to say they were not aware of the provisions. Some incredible accusations were made of the integrity of the chairman, the Hon. Ann Symonds, which were quite inappropriate and disgraceful. All blame attached to the findings was attributed to the Hon. Ann Symonds as though she had dreamed up the report on her own, irrespective of the evidence.

At that early stage of proceedings the committee heard from identified groups, including the Medical Consumers Association of Australia. Much reference has been made to that group, but during the take-note debate I asked what it was; until this inquiry I had never heard of it. At no point in the voluminous correspondence this group sent to me—most of which was pretty vitriolic, and if I had been the Hon. Ann Symonds I would have dealt with it peremptorily—was there any indication of the people behind it. Today three or four people tend to get together and choose a euphonious name—

The Hon. Dr B. P. V. Pezzutti: A Better Future for our Children!

The Hon. D. F. MOPPETT: I did not intend to give any examples. Without establishing membership or bona fides anyone can simply write to members of Parliament, a few of whom will take note of them. But that is the democratic process.

Reverend the Hon. F. J. Nile: Were they called to give evidence before the inquiry?

The Hon. D. F. MOPPETT: I shall refer to that shortly. On the eve of this legislation being passed the committee received a special representation from the Christian Science group and a submission from the Citizens Commission on Human Rights, from which large slabs have been quoted. Who the hell are they? I have never heard of them before. I do not consider that I am a shrinking violet in public affairs who does not know about a substantial organisation. I am interested in its logo: a fist holding the scales of justice with a shackle around it.

What are the objects of this organisation and who are its members? Its report is disingenuous in the extreme. It uses the common but misleading technique of quoting from the report great slabs of evidence given by witnesses who suffer anxieties. One would be naive to believe the committee's report does not contain slabs of evidence from the other perspective. It is important to refer to the conclusions of the committee and not to selectively quote out of context the objections of certain witnesses. The committee has every respect for the witnesses and their opinions, which it published, but it was not swayed by them. When the committee discussed the report, members will recall that I said that in the main, I believe without exception, the views of the objectors were subjective and hypothetical; they did not give any recent examples of the powers of the Guardianship Board having been abused. Yet this process had been in operation

for a number of years. In fact, the initiative came from the chairman of the Guardianship Board, who said he had anxieties and the board had anxieties about the interpretation that could be placed on their long-standing obligations—which, as the Attorney General would know, come from centuries of common law.

They appreciated the grave responsibilities that devolved on them, and they were of the view that the application of a placebo in a trial needed to be clearly spelled out. I think that was a very proper initiative of the Guardianship Board. The fact is that none of these drugs or procedures can be adopted for widespread use unless they undergo full and proper clinical trials which will be accepted in all spheres. The only way to do that is to include a randomly arranged placebo, so that the actual effect of the treatment or the drug can be isolated from the spontaneous effect which comes from people realising that they are part of a trial. They buck up anyway, and all sorts of good effects have been attributed to people undergoing trials when they have not received any active treatment. It has been termed the "placebo effect".

That is well known, and it has to be eliminated if we are to have the reliable development of drugs. It was important that the committee held this inquiry and laid down the arguments on both sides. I want to stress that although emphasis was placed on increasing the safeguards it was not suggested that no further trials be undertaken until these safeguards are in place. That was not the interpretation that the committee placed on the evidence. The committee considered that the trials were important to the participants. The Hon. Dr B. P. V. Pezzutti referred to one of those grave misunderstandings that have been disseminated about these sorts of trials. A person who has been nominated by the Guardianship Board as a possible candidate for a trial will not even be considered unless the drug or the procedure relates to their condition and their condition only.

In other words, if stroke victims are involved the treatment must be designed to improve their recovery from the stroke or to improve their medical condition when they are suffering the after-effects of it, and it must be impossible to get an informed agreement from them after they have suffered the stroke. It is terribly important that the agreement be given, in the case of certain drugs that have been trialled recently, within a matter of hours because that is when the maximum damage takes place in the central nervous system of stroke victims. On the one hand the committee wanted to facilitate the consideration and approval of candidates entering into these trials, under appropriate circumstances, and on the other it wanted particular agencies who had the carriage of this responsibility to consider increasing the safeguards and introducing certain improvements in the technique—which would ameliorate some of the concerns being felt by the families and those who are responsible for the care of those individuals.

It is important for honourable members to realise that all the analogies that have been quoted by those protesting about the legislation—indeed, some honourable members have referred to an SBS program and unfortunate events of the 1930s and 1940s in Europe—are as inappropriate as if we were to talk about a documentary on the invasion of Europe by the Mongols or about the Scarlet Pimpernel and the fact that the guillotine was a terrible thing. They have nothing to do with the subject at hand. The regime for medical trials in Australia stems from the late 1980s. Comprehensive legislation was introduced to control trials in Australia and avoid a repeat of the Chelmsford incident. All that is in place and I believe that the recommendations of the Standing Committee on Social Issues are clear, after considerable deliberation of all the objections which were raised. Nothing new has been raised by any of these groups that are petitioning for delay or rejection of the legislation, that could be properly considered in the context of the legislation. I commend to the Minister and to the Government that they consider the other aspects of the report which would be regarded as maximising the safeguards in due course. I certainly support the passage of this change to the Guardianship Board as expeditiously as possible.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [6.15 p.m.], in reply: I thank honourable members for their contributions to the debate. When the guardianship legislation was introduced into the Parliament in 1987 by the then Unsworth Government it received bipartisan support. Since then amendments to that legislation proposed by either Labor or coalition governments have received bipartisan support. It is to be hoped that that consensus continues. Honourable members will recall that on the last occasion this bill was before this House it did have, as I understand it, bipartisan support. Opposition and crossbench members spoke in support of the substance of the legislation, but a majority voted for a reference of this particular section to the Standing Committee on Social Issues.

That reference was made and the standing committee advertised and received written and oral submissions from the public during the course of its inquiry. The Standing Committee on Social Issues

unanimously recommended the reintroduction of the legislation. At the commencement of this session the Government tabled its response to the standing committee's report. The standing committee's report itself was debated in this Chamber on 1 April. The Government's response dealt with each of the recommendations of the standing committee. The Government said it would reintroduce the legislation and it has done so. As honourable members appreciate, this legislation is about ensuring that adults who cannot consent to their own medical treatment obtain access to treatment that they need for conditions that they have where those treatments are available only through a clinical trial.

Some members of the public coming to this legislation for the first time ask why these treatments should be used on people who cannot consent to their own treatment. The answer is found in the first object of part 5 of the Guardianship Act into which these amendments will be inserted. That object states that the legislation is enacted to ensure that people are not deprived of necessary medical or dental treatment merely because they lack the capacity to consent to the carrying out of such treatment. This legislation provides for access but with very stringent safeguards. The Guardianship Tribunal must first decide whether a particular clinical trial is one in which those who cannot consent to their own treatment should take part. The tribunal must then decide whether it should authorise the persons responsible for such persons to give consent to that treatment, or whether it should deal itself with each request for consent for individuals to have access to the treatment through the clinical trial.

The provision empowering the Guardianship Tribunal to authorise persons responsible to give consent for individuals to have access to new treatments through clinical trials has been put into the legislation in order for it to be used. It is anticipated that in the overwhelming majority of cases where the Guardianship Tribunal gives its approval to people who cannot consent to their own treatment being included in the clinical trial, it will then proceed to authorise persons responsible to give consent in individual cases. One question that has been asked by members of the public is: how will people who cannot consent to their own treatment become involved in these clinical trials? In most cases, they will become involved because they are admitted to hospital with the condition that the treatment available through the clinical trial is intended to alleviate or cure. They will be assessed, and if they meet all the inclusion criteria and none of the exclusion criteria, treating doctors may then approach their person responsible, usually the spouse or an adult child of the person.

Treating doctors will have to supply the person responsible with a consent form and information about the trial sufficient to enable persons responsible to decide whether or not it is appropriate for the particular patient to take part in the trial. This document will have to be approved by the Guardianship Tribunal; another safeguard to ensure that persons responsible make their decision after being fully informed as to the benefits of the treatments and as to the risks, if any, related to it. In other cases, for example people with advancing Alzheimer's disease, they will be recommended for new treatments by their general practitioners or by the specialists they are consulting in relation to their condition. Again, the clinical trial protocol will have inclusion and exclusion criteria; persons responsible will have to be provided with sufficient information to enable them to decide whether or not it is appropriate that patients should take part in the trial; and this document will have to be approved by the Guardianship Tribunal.

It has been suggested that the Public Guardian will play a significant role as a substitute decision maker in relation to clinical trials. I have been advised that the Public Guardian has not yet given a consent for anyone under his guardianship to be included in a clinical trial. The issue has not arisen. It is theoretically possible that a person under the guardianship of the Public Guardian could be a person who could be included in a clinical trial, but that would be only if that person had the condition to be treated and came to notice in the way that I have just outlined. In her contribution to the second reading debate the Hon. Patricia Forsythe pointed out that the Standing Committee on Social Issues makes three recommendations following on from persons responsible being able to give consent. The Government's response to the standing committee's report points out the Government's position on these matters. The Guardianship Tribunal will provide a plain-English guide to the amendments to the Guardianship Act relating to clinical trials when they are enacted. This guide will outline the issues referred to by the standing committee.

Later in her speech the Hon. Patricia Forsythe also referred to the concern of Christian Scientists that if they had indicated in an advance directive or by the appointment of an enduring guardian that they wished to receive Christian Science treatment only, this choice would be honoured. Advice from Christian Scientists indicates that participation in the clinical trials would be contrary to their religious

convictions. Honourable members appreciate that this legislation is about giving people who cannot consent to their own treatment access to new treatments that are available only through clinical trials. Also, in many of these clinical trials a minority of the participants will receive a placebo rather than the new treatment itself. A practical way of dealing with this issue would be that if anyone has expressed ethical, religious or other objections to receiving treatment of the kind envisaged in the clinical trial in an advance directive or similar document, then that should operate as an exclusion criterion in the protocol for the trial. I give the House a firm commitment that this issue will be pursued by the Minister in the other place.

I acknowledge that the Hon. Patricia Forsythe supplied to my office a copy of a proposed amendment which would explicitly incorporate this proposal. It is the Government's view that a more practical way of dealing with this issue is through the protocol. This allows other potential exceptions to be incorporated without the need for legislative amendment. In her contribution the Hon. Patricia Forsythe asked whether the standing committee's recommendation that the annual report of the Guardianship Tribunal include details of all clinical trials approved during the year would be adopted. Section 76A of the Guardianship Act will be amended by this bill to require the tribunal to do precisely that.

The Guardianship Amendment Bill is about giving adults who cannot consent to their own treatment access to treatments available only through a clinical trial. The bill contains stringent safeguards to ensure that people who cannot consent to their own treatment gain access to clinical trials only if it is clear that the treatment is likely to benefit them. People who cannot consent to their own treatment should not miss out on treatment that will benefit them simply because they cannot consent to it. This bill will overcome that problem. I thank honourable members for their contributions and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

[*Mr President left the chair at 6.24 p.m. The House resumed at 8.00 p.m.*]

BILLS UNPROCLAIMED

The Hon. M. R. Egan, on behalf of the Hon. J. W. Shaw, tabled a list detailing all legislation not proclaimed as at 5 May 1998.

TRANSPORT ADMINISTRATION AMENDMENT (RAILWAY SERVICES AUTHORITY) CORPORATISATION BILL

Second Reading

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [8.02 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

In 1996 the Government initiated a process for reform of the New South Wales Rail industry. These amendments split the former State Rail Authority into four (4) entities—a new State Rail Authority, Freight Rail Corporation, Rail Access Corporation and the Railway Services Authority. The purpose of the reform was to encourage growth and a customer focus within the rail industry. This new structure provided increased transparency to the industry and removed the cross subsidies that existed between the various business units of the former State Rail Authority. In addition to this the transport reforms established two basic objectives for the industry:

- better business practices; and
- environmental sustainability.

Both of these objectives are interdependent and necessary for the New South Wales rail industry to deliver a superior public transport system and ensure that long term cost reductions will be delivered to the community. Less than two years later the positive results of this reform process are already being felt by the industry and their customers. More people are now using rail more frequently. Since the reforms took effect in 1996 CityRail passenger journeys have increased by over 6 per cent—that is nearly 28 million additional journeys. More freight is being carried by rail now than when the Government came into office in March 1995. Last year, FreightCorp hauled 72.6 million tonnes of freight. This was 14 per cent more than the former State Rail Authority hauled in 1995-96.

Under the reforms the taxpayers of New South Wales are now getting a better return for their investment in the rail industry. In their first year of operation both Rail Access Corporation and the Railway Services Authority reported strong results. Part of the reform program included the commencement of a contestability process for the rail infrastructure maintenance. The Railway Services Authority was established as part of these reforms as a new specialist contracting organisation made up of the infrastructure management, track maintenance and freight maintenance activities of the former State Rail Authority.

From the commencement of the new rail regime until the start of the progressive program of contestability by the Rail Access Corporation in July 1997, infrastructure maintenance has been carried out exclusively by the Railway Services Authority. Under this program the State's infrastructure requirements were divided into thirteen geographical parcels. To date three infrastructure maintenance contract bundles were let under this contestability process—the East Hills and

Waterfall Bomaderry parcels were both let to Fluor Daniels and the Richmond Blacktown parcel was let to Rail Infrastructure Alliance which is a joint venture between Railway Services Authority and Theiss Contracting.

The second reading speech for the 1996 transport reforms indicated the Government's expectation that the Railway Services Authority would successfully compete on an equal footing with others for Rail Access Corporation infrastructure maintenance contracts. This competitive tendering process for track maintenance highlighted deficiencies in the Railway Services Authority's contract management capabilities. Prereform inefficiencies have meant that Railway Services Authority failed to win in its own right any of the above three (3) contracts to date. In February this year the Government announced its intention to suspend this process to allow for the Railway Services Authority to be corporatised and establish itself on an equal footing with its private sector competitors. The Railway Services Authority's workforce throughout New South Wales will be given a fair opportunity to compete for their jobs. The Railway Services Authority is a very significant publicly owned engineering business and a valuable government asset and despite recognised inefficiencies it has proven its ability to achieve significant savings and workforce reductions.

- From June 1996 to 1 January 1998 the RSA has reduced total staff numbers from 6,733 to 5,740;

- RSA has reduced corporate overhead costs by $45 million from 1996/97 to 1997/98;

- RSA achieved accumulated savings of $155 million over two years from infrastructure maintenance; and

- Secured additional private and public sector work to the value of approximately $153 million since its establishment.

The Railway Services Authority has proven that it has the skills and commitment needed to achieve necessary reform. It already operates in a highly competitive environment. It is evident that the authority needs to be corporatised to best harness its abilities and to fulfill its potential. This will enable it to compete even more effectively in the competitive New South Wales rail industry and in other markets. This bill sets out the next stage in the Government's rail reform program building on the solid platform initiated by the Transport Administration Amendment (Rail Corporatisation and Restructuring) Act 1996.

The purpose of the bill is to amend certain provisions of the Transport Administration Act 1988 to corporatise the Railway Services Authority as a statutory State-owned corporation under the State Owned Corporations Act 1989. Under the amendments proposed the new organisation will be known as Rail Services Australia. Under this bill the new Rail Services Australia will be brought into line with the corporate arrangements currently applying to FreightCorp and Rail Access Corporation.

Like FreightCorp and Rail Access Corporation, Rail Services Australia will operate in accordance with the five basic objectives for a State-owned corporation as set out in the State Owned Corporations Act 1989 and repeated in the Transport Administration Act. These are:

- to operate at least as efficiently as any comparable business;

- to maximise the net worth of the State's investment in the business;

- to exhibit a sense of social responsibility by having regard to community interests;

- to conduct its operations in compliance with the principles of ecologically sustainable development; and

- to exhibit a sense of responsibility towards regional development and decentralisation.

Additional objectives and functions of the new corporation as set out under this bill are similar to those of the former Railway Services Authority. The new corporation will focus primarily on providing goods and services to the New South Wales rail industry. However, like the Railway Services Authority and consistent with the national competition policy the Rail Services Australia will not be constrained to the New South Wales rail industry, but retain the ability to expand into the wider rail industry and maintenance in other industries. This will allow Rail Services Australia to build on its success to date in attracting new public and private sector business totalling over $150 million since establishment.

Rail Services Australia will have two voting shareholders, one to be the Treasurer. A board will be established with its membership to be Chairperson, five (5) general members and a trade union representative (to be appointed in accordance with the current arrangements within the *Transport Administration Act 1988*). The board will be appointed by and accountable to the voting shareholders. Corporatisation of the Railway Services Authority will provide it with the commercial guidance and support of a strong independent board committed to making the RSA competitive.

A full management review and restructure under the guidance of the new board will be the first priority of the new corporation with a view to further reducing corporate overheads. This process will ensure that the same rigorous workplace reforms that have been applied to maintenance staff are applied at a management level. The most valuable asset of any organisation is the people within it. This is true for the Railway Services Authority. All former staff of the Railway Services Authority will be automatically transferred over to the new corporation and will take with them the same remuneration package and all of the same working conditions as they enjoy at present. Pending staff appeals to the Transport Appeals Board will be preserved.

To allow for the transition to a corporatised body the track maintenance contestability process will be suspended until 1 July 1999. During this period Rail Services Australia will be required to drive down its maintenance costs to demanding but achievable levels. The work performed by Rail Services Australia for the Rail Access Corporation will be on the basis of benchmarks set in the key areas of cost, safety, compliance, availability and reliability.

The projected savings that were expected from the rail reform process will be maintained and continued. Rail Services Australia will be provided with the assets it requires to compete. The bill establishes a ministerial holding company to allow for the transfer of assets from the former Railway Services Authority to the new corporation. This further step in rail reform is fully consistent with national competition policy, and will maximise the value of the rail industry—and Rail Services Australia—to the community. The Government remains committed to the rail reform agenda having set the pace for the rest of the country.

This decision is about getting the balance right. The Government wants greater efficiency and savings in NSW's rail sector. But this must be balanced against the opportunity for New South Wales rail workers to compete with the private sector under improved management structures. This bill will not only provide a change in name but a change in attitude for Railway Services Authority to ensure that the extensive capabilities and skills base within it is harnessed for the benefit for the people of New South Wales. I would like to thank the board and management of both Railway Services Authority and the Rail Access Corporation and the rail staff and unions for their contributions and co-operation in delivering these reforms. I commend the bill to the House.

The Hon. Dr MARLENE GOLDSMITH [8.03 p.m.]: The object of this bill, as I am sure the Minister's tabled second reading speech makes clear, is to allow the government-owned Railway Services Authority to be corporatised into Rail Services Australia and to establish itself on an equal footing with its private sector competitors. The Minister in his second reading speech in the other place referred to the history of this development. In 1996 honourable members debated in this House the corporatisation of the rail system and the breakdown of the former State Rail Authority into four entities—a new State Rail Authority, a Freight Rail Corporation, a Rail Access Corporation and the Railway Services Authority. This particular legislation deals with the Railway Services Authority.

The Minister's second reading speech in 1996 in relation to that legislation outlined the Government's expectation that the Railway Services Authority would successfully compete on an equal footing with other organisations for Rail Access Corporation infrastructure maintenance contracts. This competitive tendering process for track maintenance, however, highlighted deficiencies in the contract management capabilities of the Railway Services Authority. Pre-reform inefficiencies meant that the Railway Services Authority failed to win in its own right any of the three contracts that have been let to date. That is a very interesting statement. In other words, this is a damning indictment of the way in which the system was organised previously and a damning indictment of the way the Government went about corporatising the breaking up the State Rail Authority. The proposed legislation before the House is an admission of the Government's total failure in this area.

Essentially the Government left the Railway Services Authority to hang out to dry. I am sure honourable members would be aware of my own philosophical position as a strong believer in competition and in the cheapest and best contract getting the job. However, we need to ensure that the Railway Services Authority can compete more effectively in a competitive rail maintenance market in New South Wales. The problem here is that this will give an unfair advantage to the Railway Services Authority. Although the legislation is intended to give it an opportunity to drive down its maintenance costs to achievable levels by corporatising and restructuring, there is a very real problem that large compensation claims may be made by private companies that have spent vast sums of money preparing maintenance bids only to be cut out of the contract process. This exercise could be extremely expensive for the State Government. The projected savings of between $100 million and $300 million annually could well be lost during the 18-month suspension of contract contestability.

There are real problems with this legislation. It will create enormous problems for private companies that have in good faith developed tenders and progressed in that direction. It is important that we have concern about the impact on rural and regional New South Wales of political changes, particularly in respect to fundamental infrastructure such as transport. If rail maintenance were to proceed in advance of corporatisation, the Government would possibly be confronted with major problems, as workers living in regional and rural areas could well lose their jobs if the private sector continued to win contracts. That is an issue of real concern. All honourable members know how hard rural and regional New South Wales has been hit in recent years. My parliamentary colleagues and I are concerned that services and infrastructure in rural and regional areas have shrunk. We must be sure that changes in rail services will not hit rural and regional New South Wales.

The politics of this issue should not be forgotten. I refer to the pressure of the union movement on this Government. There has been a move away from efficient practices, a move away from contracts that would cost the State less to contracts that would cost the State more. Shades of the Maritime Union of Australia and the situation on Australian wharves! The Government has been forced into a humiliating backflip by its own unions. There should be no mistake about who runs and manages the New South Wales Government. Here again the union tail is wagging the Labor political dog.

I emphasise that the coalition supports private sector involvement in rail maintenance. The coalition puts the Railway Services Authority on notice that it has 18 months to get its house in order. That is fairly reasonable warning. The coalition will take office in some 10 months, so the authority will have

considerable time after that to have everything in order. With that proviso and that expression of concern for rural and regional New South Wales and for private companies that will clearly be seriously affected by the bill—the result of which may well cost the Government a great deal of money—I indicate that the Opposition does not oppose this bill.

Reverend the Hon. F. J. NILE [8.14 p.m.]: The Christian Democratic Party supports this bill. Under the amendments contained in the bill the new organisation will be known as Rail Services Australia. Rail Services Australia will be brought into line with the corporate arrangements currently applying to the Freight Rail Corporation and the Rail Access Corporation. Rail Services Australia will, in the same way as the Freight Rail Corporation and the Rail Access Corporation, operate in accordance with the five basic objectives for a State-owned corporation set out in the State Owned Corporations Act 1989 and repeated in the Transport Administration Act. Those objectives are: to operate at least as efficiently as any comparable business; to maximise the network of the State's investment in the business; to exhibit a sense of social responsibility by having regard to community interests; to conduct its operations in compliance with the principles of ecologically sustainable development; and to exhibit a sense of responsibility towards regional development and decentralisation.

The Christian Democratic Party has always supported the Government's program for improving rail transport in this State. We supported previous legislation that split the previous State Rail Authority into various corporations, and believe that this bill will also improve services and income for the State. The Government is to be congratulated on the improvements that have been made and on the benefits of increased freight and passenger travel on rail services. At one stage support for the rail system declined. That decline has been reversed as a result of moves taken and it is to be hoped that the benefits will continue. The Christian Democratic Party supports the bill.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [8.16 p.m.], in reply: I thank honourable members for their contributions to the debate and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ARMENIAN GENOCIDE COMMEMORATION

Motion by the Hon. M. R. Egan agreed to:

That this House:

(1) honours the memory of the 1.5 million men, women and children who fell victim to the genocide of the Armenians by the Ottoman Government between 1915 and 1922;

(2) condemns the genocide of the Armenians and all other acts of genocide committed during this century; and

(3) requests the Presiding Officers to accept from the Armenian community a permanent commemorative display to be placed within the parliamentary precincts in such a manner as the Presiding Officers jointly determine.

Message forwarded to the Legislative Assembly advising it of the resolution.

CRIMES LEGISLATION AMENDMENT (POLICE AND PUBLIC SAFETY) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. Dr MEREDITH BURGMANN [8.19 p.m.]: I speak to the Crimes Legislation Amendment (Police and Public Safety) Bill.

Reverend the Hon. F. J. Nile: Do you support the bill?

The Hon. Dr MEREDITH BURGMANN: Reverend the Hon. F. J. Nile asks me do I support the bill.

Reverend the Hon. F. J. Nile: Usually you say you support the bill. You just said you would talk about it.

The Hon. Dr MEREDITH BURGMANN: I would hate to think that Reverend the Hon. F. J. Nile was being Jesuitical. I wish to refer to statistics released last week by Dr Don Weatherburn, Director of the Bureau of Crime Statistics and Research. Those statistics reveal that general assaults and knife assaults during the last one to 1½ years have increased but that other crimes have decreased. Those who claim that the general crime rate has increased under this Government are wrong. In the last few years the incidence of many categories of crime has been reduced. The rate of general assault and robbery with arms—often a knife—has increased.

The experts, when asked why these increases in crimes had occurred, said they believed it was to

do with heroin abuse. Dr Don Weatherburn, a fine statistician and criminologist, and police commissioner Peter Ryan, also believed—if one reads between the lines—that it was to do with heroin. Those criminologists are on record as saying that the best way to deal with crime associated with drug abuse is drug law reform. They have said that the so-called war on drugs has failed and that the harm minimisation model used in many States of Australia and up until recently at the Federal level is the way to deal with these sorts of crimes.

Before these latest figures were issued one could say to old people and women worried about going out late at night that unless they fitted into one or more of three categories they would be unlikely to be a victim of a violent crime in Australia. Those categories were: males between 18 and 24 years of age who drank in pubs were often likely to be involved in some sort of pub assault; persons involved in serious drug dealings—who are often executed at night; and women involved in violent domestic relationships. People who fall outside those categories are unlikely to be involved in an assault when walking the streets of Sydney.

I am angered that the mass media hypes up dangers on Sydney streets, given that citizens are safe on the streets even in areas such as Glebe where I live. Assaults associated with heroin addiction, which have increased in the last couple of years, can be addressed either by more police powers or drug law reform. It could be said the American model, which put one million offenders in gaol, reduced crime on the streets of New York. A frightening statistic shows that an American male aged 18 years is 50 per cent more likely to be dead by the age of 24 years if he is black. If we want that sort of society, we need only involve ourselves in a so-called war against drugs.

Alternatively, the harm minimisation model, which Australia has followed until recently, can be adopted. I am involved in a group called the Parliamentary Group for Drug Law Reform, one of whose founding members is the Hon. John Gorton. He was one of their better prime ministers, certainly better than the present one, who will hold that position for a very short time. John Gorton, at the founding meeting of the group for drug law reform, would say that the average Australian only became involved in the drug culture when a druggie broke into his or her house and stole the video.

Royal Commissioner Justice Wood identified how making drugs illegal led to police corruption. His recommendations on drug law reform should be looked at seriously. It is sad that neither side of Parliament has seriously examined drug law reform arising out of the Wood royal commission recommendations. However, if police are given greater powers to stop petty crime and other sorts of crime arising from heroin addiction—robbery with weapons such as knives is happening with increasing frequency—they will become more alienated from the youth of today, and a police State could emerge. That line of reasoning could be followed.

On the other hand, drugs could be treated as a medical problem, not a criminal problem. Why are drug users put in gaol? Last year I was shocked, horrified and disgusted by the vote taken in this Parliament to put young marijuana users found with a small amount of marijuana for personal use in their possession in gaol. I hope all honourable members who care about children are ashamed of themselves for that vote in this House. We can involve ourselves in sensible, moderate and proper drug law reform so that young people do not go into gaol, come in contact with the criminal culture and be exposed to the bad things that unfortunately still happen in our gaols.

The Hon. M. R. Kersten: Nobody from the coalition wants young people to go into gaol.

The Hon. Dr MEREDITH BURGMANN: The Hon. M. R. Kersten voted to send to gaol young people who were found with a small amount of marijuana for personal use in their possession. That vote was the most disgusting I have had to sit through in this House. It was outrageous that a number of people, who I know have used marijuana and have had in their possession small amounts of it for personal use, voted to gaol people conducting themselves in the same way. New South Wales can have a sensible harm minimisation model, as do many European countries, or stick everyone in gaol and talk about zero tolerance, as happens in America. Zero tolerance in New York means that most people who would normally be walking the streets are in gaol, and of course there is not much crime going on.

The Hon. M. R. Kersten: What is your solution?

The Hon. Dr MEREDITH BURGMANN: Proper drug law reform, as happens in many European countries.

The Hon. M. R. Kersten: I support drug law reform and so do most people on this side of the House.

The Hon. Dr MEREDITH BURGMANN: Why did the Hon. M. R. Kersten vote to put young kids in gaol?

The Hon. M. R. Kersten: Nobody voted to put young kids in gaol; that is your interpretation.

The Hon. Dr MEREDITH BURGMANN: This reforming, moderate Labor Government introduced legislation that provided that young people caught with small amounts of marijuana for personal use should not be sent to gaol, but the Hon. M. R. Kersten voted to put them in gaol.

The Hon. M. R. Kersten: I don't know how you can sprout this crap.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The honourable member will not use unparliamentary language.

The Hon. M. R. Kersten: I apologise.

The Hon. Dr MEREDITH BURGMANN: I am totally in favour of this legislation.

The Hon. J. H. Jobling: For the first time.

The Hon. Dr MEREDITH BURGMANN: The Hon. J. H. Jobling might well make fun of what I said.

The Hon. J. H. Jobling: I want you to look at the legislation.

The Hon. Dr MEREDITH BURGMANN: I am looking at the legislation, but it probably would not have been necessary if we had taken a bipartisan attitude to drug law reform a long time ago. I am in favour of legislation that seeks to outlaw a knife culture. It is frightening to look at the statistics given last week by Don Weatherburn which showed that the use of knives has increased. I am concerned that this legislation will not solve that problem. It is okay to say that one cannot have custody of a knife in a public place without reasonable excuse; that is fair enough and the current legislation makes that provision.

However, the legislation also provides that if a police officer suspects that a person has custody of a knife, the officer may request the person to submit to a search—and that is the part of the legislation I am concerned about. The legislation enables a police officer to conduct an electronic or frisk search of a person and an examination of any bag or other personal effect that the person has with him or her if the officer suspects on reasonable grounds that the person has unlawful custody of a dangerous implement. If a police officer decides that there may be a dangerous implement, that officer has the right, as he or she did in the past, to say, "I have reasonable grounds to believe that you have a knife on you. Can I please search you?" However, that provision is coupled with some sort of geographic hot-spot location whereby if someone is in a particular area that person is more likely to be searched.

The Hon. M. R. Kersten: What is your objection to that?

The Hon. Dr MEREDITH BURGMANN: If we had a perfect police force that would be fine, but there are in the police force officers who are racist or classist, who will use the legislation to harass youths in certain areas without justification. I am concerned that the person refusing to be searched has the onus of proving reasonable excuse for that refusal. That is a real problem. If a person is harassed by police wanting to conduct a search and the person says, "I don't want to be searched. You don't have any right to search me," the police may ask to conduct a search again, and if the person refuses a second time, that person can be arrested. That person has the onus of proving that he or she had a reasonable excuse for not being searched. Instead of being innocent until proved guilty, a person who refuses to be searched now has to prove that he or she is not guilty. This will be a real problem for civil libertarians.

Another problem I have with the legislation relates to the measure which deals with the powers to disperse. Proposed section 28F enables a police officer to give a reasonable direction to a person in a public place whose behaviour or presence is obstructing another person or traffic, constitutes harassment or intimidation of another person, or frightens or is likely to frighten another person, so long as it would be likely to frighten a person of reasonable firmness. I am glad that the bill stipulates "reasonable firmness". However, I am reminded of the old Summary Offences Act, which we fought so hard against in the Askin years.

Reverend the Hon. F. J. Nile: Which was so good.

The Hon. Dr MEREDITH BURGMANN: Reverend the Hon. F. J. Nile said it was so good.

Reverend the Hon. F. J. Nile: When you repealed it, law and order collapsed.

The Hon. Dr MEREDITH BURGMANN: I am glad that Reverend the Hon. F. J. Nile thinks that when Robert Askin was Premier we had law and order, which later collapsed. I would have thought that being one of the most corrupt politicians this State has ever known—

Reverend the Hon. F. J. Nile: I am talking about the streets.

The Hon. Dr MEREDITH BURGMANN: Law and order probably starts with the Premier. Askin was a well-known bookie, as is the brother of Reverend the Hon. F. J. Nile, and that is an honourable profession.

Reverend the Hon. F. J. Nile: No, my brother is not a bookie; he trains trotting horses.

The Hon. M. R. Egan: There is nothing wrong with being a bookie.

The Hon. Dr MEREDITH BURGMANN: No, there is nothing wrong with being a bookie, except if one does it illegally and makes a large amount of money—which is what Robert Askin did. A problem with the legislation is that if one does not disperse, one can be arrested and the onus of proving that one has a reasonable excuse for not dispersing is on that person. This changes the old concept of innocent until proved guilty.

The Hon. M. R. Kersten: What do you suggest we do with gangs of youths?

The Hon. Dr MEREDITH BURGMANN: I point out to the Hon. M. R. Kersten that this legislation does not refer to a gang; it refers to an individual. At least under the Askin legislation there had to be three people before they could be charged with failing to disperse.

The Hon. M. R. Kersten: Don't you trust the police to use their discretion?

The Hon. Dr MEREDITH BURGMANN: No, I do not. I read the Wood royal commission report and I know that there are police in this State who are racist, classist and sexist and who use the legislation to harass individuals. It worries me greatly that an individual can be told to disperse. There is also a grammatical problem: how can one person disperse? Legislation is already in place whereby if people behave in an harassing or intimidatory manner they can be dealt with under 25 different sections of the criminal law. The Council for Civil Liberties has published a document which lists 25 different sections that cover this sort of behaviour yet Parliament is introducing more legislation to allow police to harass youths of ethnic or Aboriginal origin.

I support the measures in the legislation that make it an offence to carry a knife in a public place without reasonable excuse. I am glad that "knife" has been defined as a metal blade, because if one were caught with a plastic knife from a takeaway shop, one would be in deep trouble. I accept the concept that because there has been an increase in offences involving knives, the carrying of a knife without a reasonable excuse should be illegal. I also support schedule 2, which amends the Crimes Act 1900 to give police the power to demand a person's name and address if an indictable crime has occurred. The police should have the right to ask for the name and address of a possible witness. I am sad that we have not gone the bipartisan way but, given the strange attitude towards the Government's good, moderate marijuana legislation, we could hardly do so. We should have gone the way of drug law reform—

The Hon. M. R. Kersten: Put that to a referendum and see if the people agree with you.

The Hon. Dr MEREDITH BURGMANN: I would love to see a situation in which the millions of dollars that we could save by sensible, proper drug law reform in the gaols, courts, the social security system, the child protection system and all other areas, could be spent on other sorts of security systems. Rather than giving police more powers, that money could be used to provide proper street lighting, more guards on trains and other public safety measures.

The Hon. I. COHEN [8.40 p.m.]: The Greens are concerned about the Crimes Legislation Amendment (Police and Public Safety) Bill. The fatal stabbing of off-duty police officer Peter Forsyth in Pyrmont sparked a flurry of media focus on street crime. The New South Wales Police Association used this opportunity to demand a swag of new street powers for police. The Government has used the opportunity to include street safety measures in a bill that deals primarily with knives. The Government knows that most people support knife control and gun control, and the Greens agree with and support those propositions. However, the street safety aspect and the wide stop and search powers proposed in this legislation are different considerations.

The Greens believe that the measure in the bill that gives police the power to give directions should have been introduced in a separate bill so that debate on that aspect is not clouded by the knife aspect—which is a common problem with legislation that this Government introduces. Bills are introduced that dangle a carrot on a stick to entice support, and that makes it difficult for the Greens to support only the reasonable parts of them. The Greens become rather disconcerted when the Government mixes draconian measures with reasonable ones.

The Government has engaged in a sneaky political move by introducing a bill that deals with the emotive issue of knives and the contentious issue of street safety, search powers and the power to demand names and addresses from people. Last year a Cabinet minute on a street safety bill was leaked to the community. At that time the bill received widespread opposition from many community groups, including the New South Wales Council for Civil Liberties, Youth Action Policy Association, Justice for Young People and Justice Action.

Additionally, fortunately, Australian Labor Party left-wing members were outraged and five of them issued a statement on 28 November vowing to fight the proposal. That demonstrates that members of this House are prepared to fight within and without their party for a better direction for society. Reverend the Hon. F. J. Nile interjected earlier that things were better under the Askin Government—how misdirected!

Reverend the Hon. F. J. Nile: On the streets.

The Hon. I. COHEN: Including on the streets. Under the Askin Government this State had such a high level of crime because a criminal was running it. In a submission to the Greens about the police and public safety bill, the University of Technology Sydney Community Law Centre and Copwatch said:

> The Bill's wording follows the substance and form of the controversial *Street Safety Bill* first announced by the Premier and Police Minister in 1996, designed to disperse "youth gangs wearing baseball caps back to front" . . .

The media have given much attention to that same attitude towards gangs. A significant number of people see through the Government's law and order campaign. The submission continued:

> The Street Safety Bill was proposed on three separate occasions over the last 3 years only to be shelved each time as a result of well-organised campaigns and demonstrations by young people, community activist groups, community legal centres and other organisations.

The provisions relating to street safety are in new part 5, division 4, entitled "Powers to give directions". New section 28F(1) states:

> A police officer may give a direction to a person in a public place if the police officer has reasonable grounds to believe that the person's behaviour or presence in the place . . .
>
> (a) is obstructing another person or persons or traffic, or
>
> (b) constitutes harassment or intimidation of another person or persons, or
>
> (c) is causing or likely to cause fear to another person or persons, so long as the relevant conduct would be such as to cause fear to a person of reasonable firmness.

That is the so-called reasonable person test. The section does not specify what kind of direction can be given and is too wide. Can a police officer give a direction to a person or persons to never go back to a certain place again? Can the police give a direction to a person or persons to go home, if they have one?

The Greens believe this measure will be used to target young people, particularly certain kinds of young people such as Aboriginal people, homeless people, non-English speaking young people and young people who, due to family reasons such as domestic violence, sexual abuse, emotional abuse or drug and alcohol abuse, may prefer to be in a public place than at home because of a distressing family environment. Perhaps those young people may feel safer being in a public place.

These directions may be used to return young people to abusive home situations, thus presenting a negative side effect of the bill. The police may use the proposed division to give directions to young people to never again frequent a place. This may devastate young people who use a particular place to congregate and meet with other young people. It could lead to young people being further excluded from public places and forced to go to dangerous homes or fringe areas from which the police will not move them.

A further problem with this measure is the relevant conduct that must be displayed by the person before a police officer is able to give a direction. In particular, the Greens have difficulty understanding the phrase "is causing or likely to cause fear to another person or persons, so long as the relevant conduct would be such as to cause fear to a person of reasonable firmness". While this test is meant to be an objective reasonable person test, it would be difficult to apply, for example, to aged people and women.

An aged person may be in or near a park at dusk or on the way home from the shop after buying some bread and milk. This person may pass a park and see a group of young people with their baseball caps on backwards laughing, chatting, joking and generally being very noisy but who, other than that, are not committing any crime; they are just hanging out. This aged person—who, let us assume, is of reasonable firmness—may have recently read in the newspapers or heard various stories about young people, and for that reason may fear them simply because they are there. Under new division 4 police

are able to direct those young people to disperse or move to another area simply because their presence is causing or is likely to cause fear to the aged person. That will be a dreadful effect of this bill. Additionally, new section 28F(2) provides:

> The other person or persons referred to in subsection (1) need not be in the public place but must be near that place at the time the relevant conduct is being engaged in.

Even if the aged person is sitting on a couch on the verandah of his or her home opposite the park the young people are in, the police could still direct the young people to move on. The bill provides an outrageous attack on people's right to be in public places; it breaches international law instruments in this regard. Article 22 of the International Covenant on Civil and Political Rights states:

> Everyone shall have the right to freedom of association with others.

Article 15 of the Convention on the Rights of the Child provides:

> State Parties recognise the rights of the child to freedom of association and to freedom of peaceful assembly.

New division 4 will lead to a further attack on young people's rights to be in public places. The Greens condemn the Government for introducing this division. As an example of the effect of this power, a group of men may be on the beach making a lot of noise, displaying male testosterone or, for example, play wrestling, but not committing any crime and not taking any notice of anyone. Three women may be having a picnic on the beach a distance away. Those women may be firm of mind but they may be a bit nervous about the men's behaviour, even though it is not directed at them.

The women may have listened to various horror stories about rape and violence towards women. Under new division 4 the police would be able to direct one or all of the men to disperse or move to another place, simply because they were engaging in a bit of play wrestling on the beach. This bill has wide implications on people's ability to do various things in public places. It will impact on people who choose to congregate in public. Parliamentary briefing paper 26/96 entitled "Dealing with Street Gangs: Proposed Legislative Changes" discusses at page 8 the issue of police and youth relations. The briefing paper points out:

> The history of the relationship between police and young people is one of considerable strain, if not conflict. Youth are a particularly visible population group. They congregate in public spaces. Their displays of exuberance, as well as of intoxication and despair, are frequently public because young people lack the personal and private spaces available to the adult community. For some people the very PRESENCE of a large group of youths is threatening. For many police, a cluster of young people constitutes a threat to public order. Because of the pattern of arrests of juveniles for crime, youth are identified as a criminal element in the community and therefore come under suspicion for many breaches of the law. Young people complain of unprovoked harassment and violence by police, while police maintain they are simply doing their duty.

That statement was taken from O'Connor and Sweetapple's book entitled *Children in Justice*. The briefing paper notes that the statement captures the antagonism which characterises much of the interaction between police and young people. Police-youth relations are notoriously strained. The principal reason for this is the high levels of contact between these two groups. The rate of police contact with young people is high compared with the contact police have with other sections of the community. This is inevitable, given young people's lack of private space, public visibility and occupation of private space. As a witness before the inquiry of the Standing Committee on Social Issues into Youth Violence in New South Wales stated:

> The fact is that public space is really the only space available to young people who do not have their own home, particularly if they want to get away from their parents or if they are in difficult situations at home . . . It is natural for kids to want to be out doing things. It is natural for anyone, not just young people, to socialise in groups. It is a human phenomenon.

In the Greens opinion new division 4 will impact on young people participating in this human phenomenon in public places. This is outdoor socialisation. This occurred more frequently before the advent of television and currently appears to be a subject of fear in our community. A number of community groups, individuals and community legal centres have spoken out against this bill or aspects of it. They include Justice for Young People, Justice Action, CopWatch, former Legislative Council member Ann Symonds, Gosford Youth Services, Shopfront Youth Legal Centre, Marrickville Council, New South Wales Council for Civil Liberties, Indigenous Social Justice Association, Inner City Legal Centre, Youth Justice Coalition, Graffiti Hall of Fame and University of Technology Sydney Community Law Centre. I would like to quote from a number of media statements made by those various groups. Kilty O'Gorman, from the group Justice for Young People, herself a young person under 21 years, said:

> At a time when young people and police relations are under increasing strain it is outrageous for our government to take advantage of this to further scapegoat young people in our society. The proposed police and public safety bill, which will give police the arbitrary power to stop and search you, demand your name and address and to break up groups of

> people hanging out in public places gives the false impression that young people are criminals and that we are to be feared (government reports prove this to be untrue). The Carr Government has a responsibility to address the real problems for young people in New South Wales today, such as homelessness, lack of affordable youth accommodation, unemployment and cuts to welfare and the serious lack of facilities, e.g. skate parks, graffiti walls. The Government must also include young people in making decisions in what will ultimately affect us.

Brett Collins from Justice Action said:

> The proposed police and public safety bill will only further increase the already ballooning prison populations of New South Wales. Young people in New South Wales already have an alarming rate of contact with the criminal justice system across New South Wales. The Carr Government needs to start recognising and encouraging the incredible contribution young people can and do make to New South Wales.

Vicki Sentas from CopWatch stated:

> The police and public safety bill represents a reactionary and ill-founded response by the Carr Government, very much in line with the cycles of "law and order" politics which usually lead up to pending elections . . . These new, wide powers will exacerbate the already prevalent social divisions and will clearly continue practices of police harassment of targeted groups.

Ann Symonds—it is a shame, I must say, that she has gone; I will certainly miss her in this House—stated, appropriately:

> We all want our streets and communities to be safe places. We all reject violence and destructive behaviour. The community has the right to expect that as well as being tough on crime politicians must be tough on the causes of crime. Poverty, unemployment, homelessness and hopelessness in our youth should be the focus of public policy. Being tough on young people who are not offending is no use to them and no benefit to society.

Gosford Youth Services said:

> Gosford was a trial area for the parental responsibility Act which did not work and has now elected not to be an operational area. This type of legislation is socially discriminatory and a breach of civil liberties.

Jane Sanders of the Shopfront Youth Legal Centre said:

> Australia has one of the highest youth suicide rates in the world. Many of our young people already feel like they do not belong and are not valued by society . . . We acknowledge that there is a fear of crime in our society which often extends to a fear of groups of young people in public places. However the solution lies in public education, relationship-building and appropriate urban planning—not moving young people off the streets.

Marrickville Council said:

> It is more important to incorporate processes of initiating or making positive contact with young people. If we review or assess the way police communicate with young people, taking into consideration acknowledgment of culture and respect as human beings, we would display to society in general how we should treat young people.

Mr Kevin O'Rourke of the New South Wales Council for Civil Liberties stated:

> The police and public safety bill will do little, if anything, to increase public safety. New police powers are another kick in the teeth for young people, Aborigines, ethnic groups and other community scapegoats. Individuals in these groups will be targeted for group identity reasons alone, increasing the "us" and "them" mentality which already pervades police culture. The new measures will be counter-productive and will give the community a false sense of security.

The President of the Indigenous Social Justice Association, Don Clark, said:

> My questions are aimed at parents. Parents of those young people who are out for a night at the pictures with their friends or who are going to a disco. Parents of kids whether they are indigenous or not, for this concerns all parents. Do you trust the goodwill of the police and the Government so much that you are willing to let them take further control over the rights of your children? Do you feel that a law enabling the police to demand that your children submit to a search for knives—or whatever—would not be misused?

An article of 24 April in the *Daily Examiner*, a newspaper circulating in the north of the State, reported that a meeting was called in Maclean:

> . . . on May 11 to discuss "the continuing high-level of crime in the State".
>
> The meeting is expected to be one of many held simultaneously on May 11 throughout the State at the suggestion of three NSW politicians.
>
> The three politicians—National Party member for Dubbo, Gerry Peacocke, Liberal Member for Wagga Wagga, Joe Schipp, and Independent Member for Tamworth, Tony Windsor—have written to every council in NSW about the May 11 meetings.

The reaction from that push on the law and order campaign by those conservative politicians was well and truly countered by David Heilpern of the Southern Cross University in a guest editorial for the Lismore *Echo* entitled "Beating the Crime Drum". He said that, unfortunately:

> . . . Lismore Council voted six to five to proceed with a meeting on crime proposed by some conservative State backbenchers . . . Most councils are not holding these meetings, and in this region only three out of seven have taken the bait.

The Hon. M. R. Kersten: Sixty-eight councils have.

The Hon. I. COHEN: In this region it was three out of seven.

The Hon. M. R. Kersten: Sixty-eight.

The Hon. I. COHEN: Well, they have taken the bait. It shows how reactionary they are. The article continued:

> Those who support the meetings seem to have a misplaced belief that there is a direct relationship between tougher sentences and a decrease in crime. This is simply not so. For example, New South Wales imprisons at a rate of 131 per 100,000 people, and Victoria at a rate of 66.1 per 100,000. New South Wales has doubled its prison population in the past 10 years and yet on all key indices the crime rates in these States are the same . . . The United States is the classic example of this trend with the highest imprisonment rate in the world and an ever growing crime problem.
>
> These public meetings are yet another opportunity for some to beat their breasts and get more headlines that berate the crime target of the day—young people or racial minorities or IV drug users. It is an opportunity for those who wish to use crime as a political weapon to point fingers at the police and the courts and pretend to be caring when they are just feeding a media inspired law and order frenzy.
>
> . . . Lismore has recently chosen a path that is consultative and non-divisive, despite the approach of some media outlets—

The Hon. M. R. Kersten: You don't reckon they actually care, do you?

The Hon. I. COHEN: I wish the Hon. M. R. Kersten would make some pointed comment. He is coming out with the same claptrap, hitting the law and order campaign with an election just over the hill. Facts prove that the crime statistics are no better with the honourable member's lock-it-up mentality. If he listened to what I am saying instead of sitting in a vacuous space thinking about embarking on a law and order campaign to get his mates elected to the next Parliament, he might start thinking about the people of the State, particularly the young people. He should listen to the facts, as these facts can be backed up. Unfortunately, the law and order campaign in this State cannot be backed up by the facts and there are people in the community who would like to hear this type of information.

The Hon. M. R. Kersten: Actually, I am listening, and I agree with most of what you are saying.

The Hon. I. COHEN: That is good. As I was saying, Lismore has recently chosen a path that is consultative and non-divisive despite the approach of some media outlets and commentators. David Heilpern sits on two key committees that are working with police, welfare agencies, business and local government to increase safety in Lismore. These committees are not keen to sensationalise crime or call for knee-jerk reactions. That approach is working. A combination of consultation, increased recreational facilities, targeted community policing, security patrols and local government involvement has seen a decrease in crime in the central business district. Lismore has to expect an increase in some areas of crime as unemployment continues to grow and is chronic amongst our young. As some groups are alienated by government policy, their frustration will find inappropriate outlets. This can be dealt with by the right mix of sensitivity and direction or we can go for short-term exploitation for political gain—and it will be short term. Those who are imprisoned return to our community even more embittered, angry and damaged than before.

A local newspaper on the north coast appears to delight in fuelling a fear of our youth. Headlines about gangs and crime are often front-page news, and local National Party members appear to be always on the ready to call for greater control on youth. Recently in Byron Bay the honourable member for Ballina called for consideration to be given to introduction of a crime prevention plan under the parental responsibility legislation, as Ballina Shire Council has done. Allegations of increases in crime and violence have resulted in calls for the usual law and order crew, with the installation of surveillance cameras being suggested by a local businessman and town resident. Thankfully, the north coast has some sensible police who are willing to comment on the issues and supply the community with facts regarding crime to dispel the fiction that too often receives media prominence. Parental responsibility is a form of control that is often inappropriate and targets the wrong people.

The Hon. M. R. Kersten: You are so naive.

The Hon. I. COHEN: I do not believe I am naive. Beverly Blanch, Byron Bay's Acting Inspector, stated at a recent chamber of commerce meeting:

> We don't have gangs in Byron Bay, but there are groups of young people who congregate in the parks and streets. That is not solely a law enforcement problem, it is a community problem.

The real problem is a lack of youth facilities. Ms Blanch went on to inform the meeting that statistics did not back the common perception of crime being out of control in the tourist town, and that levels of reported crime were decreasing despite recent well-publicised incidents. In fact, the opposite is true, as

Richmond crime manager, Inspector Wayne Grogan, pointed out. These are isolated incidents. Figures actually show that street crime is either stable or decreasing. Acting Inspector Blanch said also, "The perception is a lot bigger than the problem." This is perhaps the core of the issue: who creates the perception and who reacts?

Unfortunately, the media have power over politicians to the point that they ignore expert opinion and take their lead from the media. In Lismore there have been what many feel are media beat-ups. I am sure the Hon. Janelle Saffin and the Hon. Dr B. P. V. Pezzutti are both aware that the local media have fuelled concern in the community regarding youth and Aborigines. This can be damaging for the whole community. Rather than looking at the needs of our community, it is all too easy for newspapers to create headlines that instil fear and take us away from the more important role of caring for our communities and being aware of and understanding their issues. In response to questions about Lismore, Mr Grogan stated:

> We do have a problem with street crime in Lismore but I believe we have less of a problem than many other country towns.

Recently in Grafton councillor James stated that he believed council was "youth bashing", criticising young skateboard riders without providing them with an alternative to skating on the streets. The scapegoating of young people is the real problem. We are neglecting their needs and blaming them for what we as adults have collectively neglected. The Greens are greatly concerned by the Australian Labor Party's move to slip the previously condemned street safety bill into this legislation, knowing there is support for the removal of knives from our community, as there was for the move to rid our society of guns, to curb the Americanisation of Australia. This is a cynical move and is seen by many to be just that—a pre-election, *Daily Telegraph*-inspired law and order attack on youth. For that the ALP should be ashamed. In Committee I will move an amendment to delete the section of the bill relating to powers to give directions. This is the street safety bill revisited. In regard to the Lismore area, Mr Steve Bolt, the principal solicitor for the community legal centre in Lismore, said:

> Our biggest concern is that many young people especially will see police instructions to them to move on from public places as harassment, and they will react accordingly.

Mr Ian Irving, a solicitor for the Inner City Legal Centre, said:

> To give police powers that are broad and arbitrary would be contrary to the spirit of the recent Young Offenders Act 1997—

for which the Greens commended the ALP Government; it was certainly in the right direction—

> and the criticisms of Justice Wood during the Royal Commission Into the NSW Police Service.
>
> We believe that police do not require any further powers to officially carry out their work.

The Youth Justice Coalition, based in Marrickville, said:

> The Youth Justice Coalition strongly opposes Premier Carr's intention to legislate to increase police powers . . .
>
> Experiences of contact between young people and the police reveal police to be zealous to the point of breaching human rights obligations in their dealing with young people.
>
> Even with existing powers police treatment of young people is unacceptable. An increase in police powers will mean that it is even easier for police to target the most powerless.

The Graffiti Hall of Fame states:

> Disadvantaged and other kids are regularly stopped by police on the street and randomly searched without lawful reason or reasonable cause to suspect any crime, which causes a further breakdown in relations between police and our children. The resultant "fear" of police and related authorities by young people does often lead to depression, suicide, escapism and revenge or retaliation . . .
>
> The police need to address their mission statement of reducing violence, crime and fear of crime by assisting the person with the fear, not by attacking our vital children.

Regarding the arbitrary stop and search power, the Secretary of the Council for Civil Liberties, Mr Tim Anderson, said:

> The CCL opposes any arbitrary "stop and search" power, which would breach two provisions of the International Covenant on Civil and Political Rights (1996):
>
> > The right to protection from "arbitrary arrest and detention" (Article 9) and
> >
> > The right to protection from "arbitrary interference" with a person's privacy (Article 17).
>
> If such a law were passed, citizens affected could complain to the UN Human Rights Committee, and seek an opinion on its legitimacy. The CCL would support such a complaint, and endeavour to expose the law to international condemnation.
>
> Proposed "street safety" laws . . . supposedly anti-gang but in reality anti-youth laws—seek to proscribe the free public gathering of young people, with no actual threat from those young people. Such a law would breach both Article 22 of the International Covenant on Civil and Political Rights (1966) and Article 15 of the Convention on the Rights of the Child (1989) and the CCL would oppose it as above.

3. Youth—an integrated policy response

As much of the "law and order" hype is aimed at the supposed threat from young people, it seems timely to resume an integrated policy response to young people—a policy response which considers employment, education and social policy, along with law and order responses. A Government Department dedicated to such an integrated policy response would be welcomed by the CCL. Young people deserve a "fair go" and a "hand up", not a "kick in the teeth".

4. Police practices and effectiveness

Rather than the constant resort to extra resources (the NSW Police Service now has a huge budget of $1.2 billion), a focus on more effective and efficient policing is required. The Auditor-General has drawn attention to tardy police response rates—these will not improve with extra powers. Similarly, policing of "hot spots" is a matter of strategy (eg. A well-placed deterrent presence) not draconian powers which corrode the civil rights of the entire community.

5. Police accountability

Given that new policy powers are demanded in the name of the community, it is notable that the current State Government abolished the only formal community oversight on police operations, the Police Board. We would welcome some form of renewed community oversight.

Tim Anderson
Secretary

The UTS Community Law Centre and Copwatch pointed out in their written response to the bill:

> The powers announced by Bob Carr in the Police and Public Safety Bill are another example of the powerful political sway of the NSW Police Association and the complete failure of the Government to recognise the message from the Royal Commission in the NSW Police Service—police abuse their powers.

With regard to the search powers aspect of the bill the submission states:

> The "reasonable suspicion" test is fraught with problems and widely opposed because police commonly form suspicion for a search on the basis of race and age unreasonably. The "reasonable suspicion" test concentrates police powers on the young, indigenous people, people from particular ethnic backgrounds and enables basic civil liberties to be disregarded by police on a basis.
>
> Carr's proposal constitutes a new, broad and arbitrary stop and search power. It widens the "reasonable suspicion" test because reasonable suspicion may be formulated by a person being in a particular place. For example, if George Street were designated a "knife crime hot spot", anyone on that street could be forcibly searched. It would be uncanny if police practice were to change so that those targeted would be any other than those who are presently overpoliced. Any change to broaden the width of police search powers must therefore be seen as "targeting particular communities" rather than "protecting the community". Let's debunk the myth there is one homogenous community benefitting from this legislation.

With regard to the directions power, or the power to move on, the submission argues that this is the reintroduction of a reworded street safety legislation and points out:

> In reality these laws are anti-youth and anti-assembly. As for the concept of the youth "gang", the NSW Parliamentary Standing Committee on Social Issues found the term "gangs" is often used erroneously and emotively to denote any groups of young people. Most bands of youth are not gangs but groups. Teenagers and young adults gravitate together through ties of friendship, sport, school or ethnic background, these are usually a normal and beneficial aspect in the lives of young people . . . The Committee found that a number of gangs involving youth do exist, but found their number greatly exaggerated by the media. There was little evidence to suggest the involvement of young people in organised gang activity.

On the issue of the power to demand identification, Copwatch and the UTS Community Law Centre stated:

> The history of identification powers internationally suggests that they are reserved for states of emergency and the imposition of martial law . . . The power for police to demand identification raises broad concerns about whom it will be used against and for what purpose. The application of police subjectivity to a power of this kind has the disturbing potential consequence that people, particularly young people, without proof of identification may end up at the local police station, possibly and, in any case, unfairly detained. Serious questions are also raised about the use of identification data gathered. The privacy implications raised by this proposal are potentially enormous but completely ignored.

I wonder whether the Government's intention with regard to this legislation is towards a police state. This is particularly worrying in light of all the evidence that arose from the police royal commission and the allegations of corruption and abuse of police powers. In his second reading speech the Minister said that the bill is designed:

> . . . to equip police with laws and powers that they need to make our streets safer. A number of tragic deaths in recent years have occurred as a result of attacks by people armed with knives and other dangerous implements . . . Another key provision in the bill is aimed at enabling police to control antisocial behaviour in public places.

The Greens argue that the problems that the police Minister believes he is trying to address by the introduction of this bill, particularly division 4, would be far better dealt with by tackling the underlying social problems that contribute to the problem. Why do people hang out in public spaces? Why do people act antisocially in public places? Why do people carry knives? The Greens argue that it is primarily because of socioeconomic factors, psychosocial factors and cultural issues.

The Government's own anti-gang strategy recognises that gang behaviour has been linked to family instability, failure at school, truancy, poverty and substance abuse. Another factor that has been

identified as contributing to the perceived street gang problem is the high rate of unemployment and the associated frustration, boredom and lack of party direction. The Greens have also received correspondence from the Law Society of New South Wales and the Youth Action and Policy Association—YAPA—regarding this bill. Some of their concerns are as follows. Mr R. K. Heinrich, President of The Law Society of New South Wales, said:

> The Law Society views this Bill as an ill-advised response to recent tragic events. The legislation will create new offences which erode longstanding rights of Australian citizens. Giving Police sweeping new powers to demand information, carry out searches and move citizens about will create a regime reminiscent of totalitarian societies. It is not the way the Australian public expects the Police Service to behave.
>
> The Society is particularly concerned about erosion of the right to privacy. The legislation will provide both opportunity and potential for police harassment of Aborigines and young people in general and will create immense problems for ordinary citizens seeking to assert what rights remain.
>
> **11C Custody of knife in public place or school**
>
> This clause creates a reversal of onus for any citizen in any public place to prove that he or she has a reasonable excuse for being in possession of any blade whatsoever, including a razor blade. The reasonable excuse must be given not to a police officer but to a court. This means that innocent people—for example, farmers and rural workers who, while genuinely having custody of knifes while pursuing their occupation, invariably wear them as part of their mode of dress—can be arrested and charged and must prove their innocence in a court, contrary to principle.
>
> **28 Power to search for knives and other dangerous implements**
>
> This clause enable a police officer who "suspects on reasonable grounds" that a person has a dangerous implement (including any blade or razor blade) to request that a person submit to a search. It creates immense potential for harassment for minority underprivileged groups, especially the young, those for whom English is a second language and the unemployed.
>
> **28F Power to give reasonable directions in public places**
>
> This clause enables police to move law abiding citizens away from where they are lawfully standing or sitting upon a range of circumstances being in existence:
>
> · the police officer has reasonable ground for believing that the person is obstructing another person; · or reasonable grounds to believe she is intimidating another person; · or reasonable grounds to believe she is causing fear to another person, yet by virtue of clause 28F(8) there is no requirement for there to be any person present at the scene or even likely to be present.
>
> In clause 28F(2), a person said to be obstructed, intimidated or likely to be afraid (subjective test) does not even have to be in the same public place but merely nearby.
>
> Surely all that is required to consolidate police powers in this regard in the Summary Offences Act is a simple amendment to section 6 of the Act to include a prohibition against harassing and intimidating another person.
>
> **563 Power to demand a name and address**
>
> Legislation of this sort has been consistently opposed whenever any Parliament has considered introducing it in Australia. The only requirement police need to satisfy in order to have the power to demand a citizen's name and address is a belief on reasonable grounds that the citizen whose name is demanded may be able to assist in the investigation of an indictable offence—for example, assault, stealing, supply cannabis—on the ground that the citizen was near the place where the alleged offence occurred. Apart from the serious invasion of privacy, there is again a massive potential for harassment which it would be impossible to curb.
>
> As shown in the attached schedule, police already have sufficient powers to stop, search and detain people without arrest under provisions of both the Crimes Act 1900 (s. 357E) and the Drug Misuse and Trafficking Act 1985 (s. 37) if they have a reasonable suspicion that the person or vehicle is carrying any article referred to in the Act.
>
> The community should be reminded of the substantial number of powers already available to police. The Society is most concerned that the lessons of the Royal Commission into the NSW Police Service about abuse of these existing powers appear to be forgotten so soon.

The Youth Action and Policy Association, YAPA, said in a briefing paper:

> YAPA welcomes the move by the State Government to remove knives from public spaces, given the recent death of Constable Forsythe, and the latest figures from the NSW Bureau of Crime and Statistics highlighting the increase in weapon related crimes.
>
> However, the introduction of the Crimes Legislation Amendment (Police and Public Safety) Bill 1988, will only address this serious community problem in a limited capacity. It is important to realise that this Bill will have a significant impact on young people and their relationships with local police officers. Law and order approaches are not the only solution to the serious social problems that continue to be inadequately addressed by this Government. If law and order policies are to be effective, they cannot be introduced as isolated strategies. Real crime prevention is about developing an integrated package of strategies, with both a social and policing focuses. That is, effective crime prevention programs will address crime on a variety of levels including policing, education and training, families and include the community as a whole. Families, educational institutions and broader community structures are essential in a successful reduction of crime within our community.
>
> Similarly, crime prevention programs for young people must reduce the opportunities for young people to engage in criminal activity, both in the present and future.

The briefing paper also stated:

> This Bill gives further discretionary power to police officers. Police currently have a wide range of discretionary powers to respond to potential criminal incidents. YAPA acknowledges and supports the move away from the previous street safety proposals to give police move on powers where no crime has been committed. YAPA believes that given the history of

conflict between young people and the police, the monitoring of this legislation must include records of the process used by police officers. It should be compulsory for police officers to document each incident where the legislation is used and that the following needs to be recorded: age, ethnicity, location, nature of incident, outcomes. Young people should be given a card by the police officer with name and identification number clearly marked . . .

The Ombudsman's Office will have the role of officially monitoring the legislation for a trial 12 month period. YAPA asks that the Ombudsman also be allocated resources to increase young people's awareness of their legal rights and responsibilities under the legislation and provide complaints making information to young people and their advocates . . .

YAPA acknowledges the difficult position the Police have in carrying out their duties with an increase in violent offences.

Police should not be responsible for addressing social problems.

Issues relating to young people's use of public spaces are beyond issues of crime. Government needs to identify and act on the urgent issues of youth unemployment, suicide, homelessness, poverty and violence.

The "net widening" effect of this Bill which will include of young people who have not committed offences is a major concern to YAPA. Targeting already vulnerable groups of young people from Aboriginal and non-English speaking backgrounds has the potential to increase conflict between young people and police drawing more young people into the formal justice system.

After 3 years of government, there is still no youth policy. This legislation has been developed without any reference to a young policy or as part of any crime prevention package.

The association made requests in the following statement:

YAPA REQUESTS THAT THE NSW GOVERNMENT ACT ON THE FOLLOWING

1. The *Ombudsman's Office* be provided with 2 full time project officers to monitor the 12 month evaluation period of this legislation. This position should also be used to provide information to young people and their advocates about the legislation, young people's rights and responsibilities under the legislation, and information about the complaint making and handling process.

2. The release of the *Youth Policy*.

3. Review the existing *youth employment programs* (ie Circuit Breaker, Time Out, Helping Early Leavers and Koori Youth Program) in order to provide appropriate resources so that these programs can be carried out effectively.

4. Review the curriculum for *General Duties Police Officer training* and introduce better training modules to address issues related to the interaction between young people and the police.

5. The recommendations of the NSW Government commissioned report into *young people's use of public spaces*, titled "No Standing" need to be taken up by the relevant government departments, ie Department of Urban Affairs and Planning, Department of Local Government

6. Parent Drug Education Program is a positive step towards addressing drug use issues with young people and their families. Crime statistics indicate that the increase in robbery with a weapon is related to drug use. State Government needs to reinvestigate the viability of heroin trial programs to include wider community consultations in light of the released statistics.

The Greens policy refers to "the repealing of all laws which infringe the civil liberties of young people" and to "supporting the International Convention on the Rights of the Child and the recommendations of the Burdekin Report (Our Homeless Children) and the Kids in Justice Report produced by the Youth Justice Coalition (NSW)". I hope that my contribution this evening has demonstrated that many sections of the community, including those who work with young people, are greatly concerned about this bill. The Labor Government has the opportunity to reform the law. The Greens accept reform and acknowledge the problems relating to the possession of knives. However, introducing conditions that are draconian and target young people creates many other problems and transgresses many accepted society norms.

Aspects of this bill are certainly not the way to go if we are to move towards a caring and sharing society. I hope that the Government will start listening to the concerns expressed by legal advisers, academics and youth groups, who speak as of one voice in opposition to several significant facets of the bill. I trust that the Government will give serious consideration to a number of the amendments that I am sure will be moved in Committee. The bill in its present form is much too draconian to be acceptable to the Greens.

The Hon. P. T. PRIMROSE [9.26 p.m.]: I listened with great interest to the contribution made by the Hon. I. Cohen. He presented a great deal of very interesting material and I look forward to reading his contribution in *Hansard* tomorrow.

[*Interruption*]

Before speaking to the bill, I should like to point out, from a purely philosophical point of view, that one of my worries about these interjections is that they come from honourable members opposite who refer to themselves as Liberals. There are members of the National Party there, too, but certainly their philosophy is liberal—they are the sons and daughters of John Locke. Locke regarded citizens as being rights-bearing individuals. We had rights that pre-existed the State, and as a

consequence it was important to reduce the quality of the State—the intrusion of the State. Every time we have a debate such as this honourable members opposite suggest that the way to solve problems is for the State to further intrude into people's lives. For instance, at the Federal level, that great Lockean John Howard says that in industrial relations we should withdraw the State; that, in purely contractual terms, this is a matter between those groups of rights-bearing individuals. What happens then is that the moment there is a problem with that proposal honourable members opposite say, "Let's bring in the police."

The Hon. Helen Sham-Ho: On a point of order. The House is debating the Crimes Legislation Amendment (Police and Public Safety) Bill. The Hon. P. T. Primrose seems to be talking about the philosophy of the Federal Government.

The Hon P. T. PRIMROSE: I am grossly disturbed at the suggestion that there is no philosophy—

The PRESIDENT: Order! I am sure the honourable member will direct the philosophical strains of his argument towards the legislation.

The Hon P. T. PRIMROSE: This legislation and the objections to it relate to the underlying concerns about the role of the State and law and order. I am greatly concerned, as I move towards discussion of the objects of the bill, that those who call themselves Liberals constantly seek to further intrude the State into the lives of citizens.

Reverend the Hon. F. J. Nile: This is an ALP bill.

The Hon P. T. PRIMROSE: I would be very pleased to have further discussion about the philosophy behind the bill and the philosophy behind the objections of honourable members opposite, but, having regard to the President's ruling, I shall speak to the objects of the bill. I am pleased that the Hon. Helen Sham-Ho, a social worker, is greatly interested in these sorts of matters. The overview of the bill states:

> The object of this bill is to amend the *Summary Offences Act 1988*:
>
> (a) to create an offence of having custody of a knife in a public place or a school without a reasonable excuse, and
>
> (b) to enable a police officer to conduct a search of a person in a public place or a school if the police officer suspects on reasonable grounds that the person has unlawful custody of a dangerous implement, and
>
> (c) to enable a police officer to confiscate a dangerous implement found in a person's custody in a public place or a school if the police officer suspects on reasonable grounds that it is unlawfully in the person's custody, and
>
> (d) to enable a police officer to give reasonable directions to a person in a public place if the police officer has reasonable grounds to believe that the person's behaviour or presence is obstructing another person or traffic, constitutes harassment or intimidation of another person or is likely to frighten another person.
>
> The bill also amends the Crimes Act 1900 to enable a police officer to demand a person's name and residential address if the officer believes on reasonable grounds that the person will be able to assist in the investigation of an alleged indictable offence.

Proposed section 28F(1)(c) of the Summary Offences Act relates to police officers having increased power to give reasonable directions in public places. It particularly refers to police being able to give that direction and states:

> is causing or likely to cause fear to another person or persons, so long as the relevant conduct would be such as to cause fear to a person of reasonable firmness.

Not being a lawyer I am not sure how it is possible to disperse one person.

Reverend the Hon. F. J. Nile: Split personalities.

The Hon P. T. PRIMROSE: Reverend the Hon. F. J. Nile mentions split personalities, about which I am sure he is well aware. This legislation requires a police officer to make a judgment about what is likely to cause fear to another person. When speaking on the Traffic Amendment (Confiscation of Keys and Driving Prevention) Bill a couple of weeks ago, the Hon. J. S. Tingle talked about his concern regarding the expression "the opinion of a police officer". He said:

> However, that is the exact cause of my unease. The bill and the associated briefing paper refer often to phrases such as "if a police officer is of the opinion" or "if the police officer has formed the opinion". With the greatest of respect to our police, that provision is far too subjective.

The Hon. M. J. Gallacher, the other well-known civil libertarian, spoke about the same matter. In relation to police having to make a judgment about whether or not someone would come under their purview, he said:

> The police would then make a value judgment as to the person’s ability to drive the car. That process is flawed and it is open to complaint that police officers have acted improperly. Similarly, it could easily be manipulated by unethical police officers to deny a person the opportunity to drive a car away. Police could simply say, "Though I formed

> the belief that the person was affected by drugs I could not determine that to be the case, so I thought it would be in his best interests not to let that person have the keys." . . . the police officers who have made that value decision could find their decision questioned and not supported by legislation.

I agree with those statements but I am concerned about a police officer using discretion to assess what is likely to cause fear to another person or persons even if that person or those persons are not present. Experience so far suggests that miscarriages of justice are likely to occur when the presumption of innocence is replaced by the presumption of guilt. Proposed arbitrary search and move-on powers allow police to target Aborigines, young people and other groups, who for their group identity alone assume guilt. I have no great problem with the overwhelming bulk of the bill but I put on record my concern about proposed section 28F(1)(c). Proposed section 28G of the Summary Offences Act 1988 limits the exercise of police powers and states:

> This Division does not authorise a police officer to give directions in relation to an industrial dispute or organised assembly, protest or procession.

I support that eminently reasonable and responsible section. It distresses me that friends of workers—people such as Reverend the Hon. F. J. Nile and the Hon. M. J. Gallacher—have said that the Opposition will, if a coalition is ever unfortunate enough to gain the Treasury benches, move an amendment to eliminate that section of the legislation. I place on record that if that occurs many of us have said many times, "I told you so."

The Hon. J. S. TINGLE [9.37 p.m.]: In general I support the intention of this bill. Indeed, it would be difficult for any reasonable person, aware of the outbreak of stabbings and other crimes with knives, to seriously oppose this bill, attempting as it does to deal with this problem. But I must also say that some aspects of the bill trouble me deeply and make me feel that in the final analysis perhaps it is an overkill which could have been better thought through. The bill's simple and basic purpose is to stop people carrying knives in a public place; and to give police power to search people to see if they are carrying knives.

The genesis of the bill obviously has been the gang stabbings and the tragic stabbing of police by gangs of hoons in various parts of Sydney. The steep rise of about 70 per cent in knife attacks in a relatively short space of time is alarming and inexplicable. That shows the emergence in Australia of a phenomenon that has not formerly been a part of our culture. Even the razor gangs that roamed Sydney so many dark years ago were not quite as vicious, ferocious and unpredictable as the gangs and groups that now attack, apparently at random and for no particular reason.

However, when I read this bill a small shiver—a frisson d'horreur—comes over me. It all sounds so familiar: knife attacks have occurred, so ban knives in a hurry. The Parliament must at least be seen to do something, by introducing a bill to show it is prepared to tackle this problem. I have no problem about tackling crime head on but I am concerned that a solution is not viewed as being important and relevant. For me, and for the constituency I represent, it is deja vu. Guns were used to commit horrific massacres, so vast numbers of guns were banned, and a huge number of law-abiding citizens who had done nothing wrong were deprived of legally owned private property. They became suspect and socially despicable just because they owned a gun.

Are we doing the same thing to all the people who own and customarily carry a knife? How can women, like my wife, who carry a small Swiss army knife in their handbags, not for personal protection but because it contains a small screwdriver, scissors and corkscrew—one never knows when one might come across a bottle of wine—prove that they have a reasonable excuse for carrying such a knife?

My concern with this bill is not that it prohibits having custody of a knife in a public place or school—indeed it is horrifying to think that someone might have a dangerous knife in a school—but that it gives police the huge power to stop and search a person on the grounds that the police have formed a reasonable suspicion that that person has a knife on their person. The bill should properly be aimed at the gangs in some parts of the city of Sydney and some suburbs where knife crime has become a serious and dangerous social problem. The bill should not be used as an excuse for police to search people in other places where knife crime is uncommon or unknown.

Therefore, I foreshadow an amendment, which I will seek to move during the Committee stage of the bill, to limit the application of this legislation to specific police districts where knives and knifing have become a problem, such districts to be set by proclamation or regulation. I suggest that this would limit the very grave powers conferred by this legislation to areas where they should properly be used to control knife crime, not to areas of the State which are free of such crime. Honourable members should have no doubt that the bill gives police grave powers to stop and search citizens going about their lawful business, because a police officer has formed

a suspicion that they might have a knife on their person.

These powers are uncommon in New South Wales, and so they should be. If we are to allow them, then we should take great care that they are used only when justified, and only on real grounds, at all times. While I accept that most police would use these powers with great discretion, it would be naive to suggest that there would not be police officers who might take advantage of this power for harassment or intimidation of people under some circumstances. Honourable members should consider the implications of the way this power is used. While the bill says an officer may request a person to allow a search, it also stipulates that if the person refuses to submit—and that is an interesting word—he or she commits an offence. The bill repeats this warning several times. Proposed section 28H contains the intriguing statement:

> that evidence of a thing found during a search . . . is not inadmissible in proceedings merely because it is a different type of thing to that for which the search was conducted.

Is it impossible that a police officer looking for something entirely different could seek to find it by pretending that he or she was looking for a knife? And then, as provided in proposed section 28H, on finding something entirely different—a prohibited substance or something suspected of being stolen—the police officer could perhaps forget all about the knife, and, instead, charge the person with whatever it was he was really looking for. This might be an effective way of catching criminals, but is it the way we want it done? If I read the bill correctly this would be a distortion of its real intention—but is it allowable?

In summary, the bill has a good intention but its sweeping powers will cause a lot of concern to many people, especially in areas where knives are not a problem, such as the country. I support the Government's intention and I applaud it for being prepared to tackle this sort of crime head-on. But the Government needs to rethink the universal application of these powers. I urge the Government to seriously consider the amendment I have foreshadowed to make sure that the bill is sharply focused on the places where the problem exists. Do I need to revisit the old saying that it is better for 10 guilty men to go unpunished than for one innocent man to be unjustly convicted? I hope not.

The Hon. JANELLE SAFFIN [9.43 p.m.]: I wish to put on record my sympathy for victims of crime, particularly those threatened by or injured during a knife attack, families who have lost loved ones in such circumstances, and the large number of women who have been victims of domestic violence. I cannot see how this legislation will assist them.

The Hon. Virginia Chadwick: Aren't you supporting it?

The Hon. JANELLE SAFFIN: I will vote for the legislation, but I do not like it. I do not want to enter into debate about which party is the toughest on law and order. I find that approach somewhat immature and macho. Upping the ante on law and order does little to tackle social problems of poverty, crime and unemployment. The language used by all parties on the law and order debate is tough talk. I am concerned that we all talk tough but do little to tackle the real causes of crime. I have the greatest respect for the Attorney General but, by way of example, his second reading speech is peppered with what I call tough talk. Honourable members who supported law and order bills used tough talk, such as "maintain law and order", "tough decisions", "tackle head on", et cetera.

Reverend the Hon. F. J. Nile: That doesn't sound like Jeff Shaw.

The Hon. JANELLE SAFFIN: The talk I am referring to is the culture that develops around law and order, and it is that macho talk that I find most disturbing. I am of the view, along with other commentators far more learned than I am, that police already have the power to do the things referred to in the legislation. In practice I know that police take such action. Along with my colleague the Hon. Dr Meredith Burgmann I support moves to stop the knife culture. There is a knife culture, but knee-jerk legislation will not achieve the desired end. The powers of search and dispersal are strong, grave powers to give to anyone, including members of the police force.

Those powers are commonplace in States that are ruled by military dictators or totalitarian regimes. The movie *Judge Dredd*, in which Sylvester Stallone gives an appalling performance, has proven to be as prophetic as Orwell's *1984*. In that movie the law is applied summarily, with no excuses, by motor-bike police who are the judge and jury. I foresee that happening in this State as we keep extending law and order. I have seen the powers of search and dispersal exercised in States that operate under military dictators, as is reported daily in news from places such as Indonesia. I do not want to live in a State where police are given such broad and arbitrary powers. Justice Wood, during the Royal Commission into the New South Wales Police Service, criticised police for having such broad and arbitrary powers. In a military dictatorship I was

frisk searched and I did not like it. Under this legislation police will be given that power.

Reverend the Hon. F. J. Nile: There are no strip searches provided in this legislation.

The Hon. JANELLE SAFFIN: No, I was not strip searched; I was frisk searched, which is very different. I would not like that unpleasant experience to occur in New South Wales. There is an arguable case that the proposed law would breach parliamentary obligations under the International Covenant on Civil and Political Rights, but little heed seems to be paid to such obligations in New South Wales, particularly in a law and order debate. It is easy to ask critics of such legislation or to ask critics of apparent increased police powers—and I am one such critic—what should be done about this problem? People ask that question with a degree of moral smugness, with a smirk, yet the same critics have failed to apply intellectual vigour or lateral thinking to the problem. There is a problem: there is a knife culture, and young people in particular, though not solely, view knives as status symbols.

A knife is an easily attainable physical extension of the macho syndrome, which permeates the debate on law and order. As part of that syndrome, those least powerful embrace such weapons with even more enthusiasm. Ways should be found to challenge this culture and provide opportunity for real debate. If this law fails to achieve its stated objectives what will we do about it? Will we have more law and order and strip searches, as opposed to frisk searches? What will happen? If after 12 months it does not work, what do we do? Do we give the police more powers and introduce tougher penalties? This approach to law and order is flawed. The saving grace, if it can be called that, is that the newly created offences and police powers will be reviewed by the Ombudsman after 12 months. At the end of that time it will be interesting to see whether those powers have been abused and the objectives have been achieved.

Debate adjourned on motion by the Hon. R. S. L. Jones.

ADJOURNMENT

The Hon. R. D. DYER (Minister for Public Works and Services) [9.50 p.m.]: I move:

That this House do now adjourn.

TIBETAN HUMAN RIGHTS

The Hon. JANELLE SAFFIN [9.50 p.m.]: I express my concern and support for the Tibetan patriots who were on a hunger strike and facing death in India to draw international attention to the plight of their homeland. I offer sympathy to the friends and family of Thupten Ngodup, a hunger striker who died on 29 April. I urge support of and compliance with the recommendations of the report of the International Commission of Jurists, December 1997, concerning the rights and freedoms of Tibetans. I seek leave to table the recommendations of the report.

Leave granted.

On 7 April the Senate agreed to the following resolution:

> That the Senate expresses concern and sympathy for the Tibetan patriots who are on a hunger strike and facing death in India to draw international attention to the plight of their homeland.

I have a letter from Chhime Chhoekyapa, representative of His Holiness the Dalai Lama, which states:

> Dear Ms Saffin,
>
> I am writing to bring to your kind attention the death on 29 April of Mr Thupten Ngodup, the Tibetan (Age 60) who set himself on fire on 27 April in New Delhi, India. His tragic actions were in protest after Indian police forcibly removed the six Tibetan hunger strikers to hospital. As you are aware, they had been on hunger strike since 10 March until their forced removal on 25 and 27 April. The hunger strikers demanded that the United Nations intervene to resolve the Tibetan issue peacefully.
>
> A renewed indefinite hunger strike by six other Tibetans began on 27 April to replace those who were forcibly taken to hospital by the Indian security authorities.
>
> Tibetans in Australia and support groups like the Australia Tibet Council have organised candle vigils and 24-hour fasts in various places across the country in support of the hunger strikers in India.
>
> As you may be aware the media in Australia have been reporting the developments of the hunger strikers and the death of the Tibetan man.
>
> In his latest media release (statement attached), His Holiness the Dalai Lama has appealed to "the governments and international fora to make earnest efforts to resolve the problem of Tibet peacefully".
>
> I wish to thank you once again for your continued interest in and concern for the just and peaceful struggle of our Tibetan people.
>
> Yours sincerely.

His Holiness the Dalai Lama said, amongst other things:

> Although I disagree with their method, I do admire the motivation and determination of these Tibetans. They were prepared to die not for their selfish ends, but for the rights of six million Tibetans and the survival of their culture.
>
> I request the international community to enhance its support to the cause of Tibet in a more substantial way. I request the governments and international fora to make earnest efforts to resolve the problem of Tibet peacefully.

From their reactions and in discussions I know that the situation of the Tibetans concern many of my colleagues, even those who want to pursue a bilateral dialogue with the People's Republic of China. However, I cannot ignore the reality of their lives. Many Tibetan people live in extreme circumstances. Anything we can do to assist them through the Australian-Tibetan community can be only beneficial.

DEATH OF Dr SENTHIL VASAN, MAYOR OF CASINO

The Hon. Dr B. P. V. PEZZUTTI [9.55 p.m.]: On Monday I was woken by a phone call at 5.45 a.m. from a friend in Lismore who informed me that the light aeroplane being flown by Dr Senthil Vasan on his way to Stanthorpe had not arrived at Archerfield airport. I joined with many people on the north coast in the anxious wait to find out what had happened. Unfortunately, this morning the body of Dr Senthil Vasan was found near the wreckage of his light plane in almost inaccessible bushland in the McPherson Ranges north of Kyogle.

The passing of Dr Senthil Vasan has left a pall over the far north coast of New South Wales. He was a widely respected feature of the north coast community and, of course, played a larger role at State level. Dr Vasan was born in Malaysia and educated in Malaysia and Sri Lanka. He was a Colombo plan scholarship student in India where he gained his medical qualifications. In fact, on graduation he received the medal from his medical school. He worked in hospitals in Malaysia and Singapore and then moved to Melbourne.

Dr Vasan was enticed to the north coast and to country New South Wales. He rapidly established a successful practice in Casino because of his skills and comfort within those areas. He was actively involved in the community and became Chairman of the Visiting Medical Officers at Casino hospital. He was a major player in continuing to press for improved hospital services, attracting specialists from Lismore to visit and operate at Casino. He ensured that Casino patients were cared for locally, and the community was encouraged by Dr Vasan to contribute to purchasing equipment and other necessary items.

Dr Vasan was mayor of Casino since September 1991. He was past President of the New South Wales Country Mayors Association, President of Northern Rivers Regional Organisation of Councils, a past member of the Northern Rivers Regional Development Board, a member of the Premier's Task Force for Regional Investment, and an executive member of the Local Government Association of New South Wales. He fitted all of this in with his medical practice. Of course, he was a leading light in the local aero club, as the Hon. Janelle Saffin indicated, and a member of the Australian Flying Association.

The Hon. Elisabeth Kirkby reminded me earlier that she remembered Dr Vasan for his clear evidence before General Purpose Committee No. 2 when it visited Lismore. He gave evidence on behalf of rural doctors and on the needs of rural doctors and of his own community. He spoke with conviction, confidence and a great deal of wisdom. Dr Vasan used his time as President of the Country Mayors Association to advance the cause of obtaining doctors for rural general practices. He did a lot of work with the current Government and the Opposition to try to achieve that goal.

Dr Vasan was a tireless worker for his patients and the community, and at a higher level for the State. He brought a very quiet and gentle touch to any gathering, and he was able to command respect and show leadership. He reminded me of another doctor, Dr Jabour, who was mayor of Casino during the Depression. Dr Jabour led Casino out of the Depression and put in place many of the great public works in that city. Dr Vasan has done the same. He has put Casino on a sound footing both financially and by way of resources and infrastructure. Dr Vasan will be sadly missed by the medical community on the north coast, by his patients and by the people of Casino, for whom he had a fatherly touch. He had a much greater contribution to make to the State but, unfortunately, he has passed away. I leave my condolences with his wife, Vicki, his two sons and the rest of his family.

POLICE OFFICER DEATHS

The Hon. ELAINE NILE [10.00 p.m.]: Given that the House debated the Crimes Legislation Amendment (Police and Public Safety) Bill earlier tonight, it is apt that I now pay tribute to 114 police officers who have lost their lives in the line of duty since 1960. These men put their lives on the line when they joined the force to serve their State. They served New South Wales and the other States

without fear or favour. I seek leave to table a list of those 114 names.

Leave granted.

An official of the Police Association sent me a copy of a book entitled *Beyond Courage*, which outlines the circumstances relating to New South Wales police officers who have lost their lives. I commend this book to honourable members. It starts at the very beginning with what was called The Nightwatch in New South Wales and relates the circumstances surrounding the first shooting of a police officer, in 1803. It is heartrending. I discovered when researching my family tree that a member of my family, a police officer, was murdered at Bondi in 1931. I would like to read this brief extract from the book:

> There is an ethos in policing, best known to police themselves and the families who love and support them: families who all too often experience the despairing depths of the sadness and the loss that accompanies their sudden passing. There is no other purpose to policing than to serve the community, and our community expects, on its behalf, sacrifices extending to the extreme.
>
> What more can a police officer offer our community than his or her very life? And who else so freely enters into such a bond to serve "without fear or favour", even to the extent of that ultimate sacrifice?

Our police officers do this. Sergeant Danny Webster of the Goulburn police academy put this book together. He says that there will never be an ending to it because as long as there are in society people who disobey the law and commit atrocities and crime, police will forever lose their lives in the line of duty. Senior Sergeant Ian Alexander Borland, whose partner was murdered in the line of duty, said in the foreword to the book:

> As a survivor of an incident in which my workmate was killed in the line of duty, I cannot describe the emptiness one feels that there have only been such scant records of these incidents kept or made available for the information of generations to come. This book proudly records those incidents which will ultimately serve to correct that error.
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> The armed services say it best, and we should, by the very nature of the gallantry displayed by those men and women who have paid with their lives, at every opportunity, "lest we forget", ensuring however at the same time, we never do.

I commend the book to honourable members. It is very informative and opens one's eyes to what police officers of today and yesterday had to go through.

DRUG LAW REFORM

The Hon. B. H. VAUGHAN [10.04 p.m.]: I am inspired by Ann Symonds to make these few remarks. I draw the attention of the community to remarks made recently by the new Director-General of Community Services, who is reported as having said that the ever-increasing number of children abused and neglected in New South Wales is due to the ever-increasing incidence of drug consumption in the State. I speak as a member of the Australian parliamentary drug reform support group. I remind honourable members that women, who feel more deeply about this sort of thing than men, inspired the United States Government to introduce prohibition in that country. They did so because of the effect of drink upon their children at that time, the neglect and abuse of children, and, apart from anything else, the neglect and abuse of wives that was occasioned by alcohol.

Strangely enough, some years later the same group of women, but this time joined by many more—many of whom belonged to the most elite segment of society—brought about the repeal of prohibition. Those women, as I saw in an interesting documentary on SBS in recent times, considered that the effect of prohibition was far worse than the availability of alcohol. The director of the Bureau of Crime Statistics and Research and the police commissioner have referred to the effect of neglect and abuse of children arising out of drug abuse. On 23 May the Australian Drug Reform Foundation will hold a conference in Canberra. That foundation will put before its members the following 10 points for discussion and, if carried, implementation:

1. Treat drug use and drug users as a health, not a law enforcement problem.

2. Fund and expand evidence-based practice: defund and contract interventions unsupported by evidence. Maintain illicit drug government expenditure at about current levels, spending 80 per cent on prevention and treatment and 20 per cent on law enforcement.

3. Provide well-funded, research-based drug education for the community and schools, run by education and health professionals without political interference.

4. Maintain current penalties for unauthorised, large-scale (defined) cultivation, production, transport, sale and possession of all illicit drugs.

5. Repeal penalties for small-scale (defined) cannabis cultivation, sale and possession.

6. Repeal penalties for small-scale (defined) possession, sale and administration of heroin, cocaine, amphetamines and other (listed) drugs.

7. Regulate and tax outlets for cannabis sale and licence and tax production of cannabis.

8. Expand drug treatment and needle exchange to meet demand, establish injecting rooms where needed and accepted by the local community.

9. Divert selected, non-violent persons arrested for minor drug-related crimes to non-custodial sentencing options such as combination of compulsory drug treatment and community service orders.

10. Evaluate rigorously medical prescription of heroin.

OLYMPIC TORCH

The Hon. C. J. S. LYNN [10.09 p.m.]: Last week I expressed my satisfaction at the announcement of the Prime Minister's desire for the Olympic torch to be carried across the Kokoda Track en route from Athens to the Sydney 2000 Olympic Games. However, I was disappointed when I learned that the President of the Sydney Organising Committee for the Olympic Games, Michael Knight, and two members of the Australian Olympic Committee, John Coates and Phil Coles, rejected the idea. The ignorance and the arrogance of these three bureaucrats is breathtaking. As bureaucrats their job is to implement the policy and direction of our democratically elected political leaders—not to dismiss them because of their own ignorance and prejudice. I was further concerned to learn of the outcome of a reconnaissance in Papua New Guinea by Commonwealth, SOCOG and New South Wales Police Service personnel between 30 March and 3 April 1998. The report from the New South Wales Olympic security command centre includes the following assessment:

> . . . It is our firm advice that under no circumstances should the Olympic flame be taken over the length of the Kokoda Trail.
>
> The position stated above does not, however, prohibit the Olympic flame having contact with aspects of the Kokoda Trail. It will be possible to protect both the personnel and equipment involved in the relay, provided there is only limited involvement with the Kokoda Trail. If the Olympic flame is to travel outside the metropolitan area of Port Moresby, I support the position . . . that the torch be taken by helicopter from Jackson's International Airport to Ower's Corner . . . the relay could then be conducted in a limited form with various way points staged at significant locations along the Sogeri Road . . . The physical conditions, isolation and communications difficulties prevent the consideration of any other approach.

This reconnaissance was obviously conducted from the comfort of an aircraft flying high above the Owen Stanley Range. Napoleon once said, "Time spent on a well-planned reconnaissance is seldom wasted. Time spent on an unplanned reconnaissance is often wasted." This was obviously an unplanned reconnaissance, because those responsible did not examine the route on foot; nor did they consult the most experienced people with an interest in the Kokoda Track or its people, the Kioari. As a result, the report they produced is inaccurate and misleading. I find it incredible that such an incompetent reconnaissance could be conducted by people charged with providing advice to the Prime Minister. If this is the standard of professionalism of the New South Wales Olympic security command, we risk being branded as the keystone cops from down under.

The standard of the reconnaissance and the quality of the report indicate we have learned little from the ridiculous orders and directions our Diggers were given by the political and military bureaucrats during the Kokoda campaign. For example, in 1942 Lieutenant Bert Kniezle, a plantation owner from Kokoda, was ordered by the Australian command to build a road across the Kokoda Track, and was given four months to complete the task. His response was reported to have been unprintable.

After the battle for Isurava, from 26 to 30 August 1942, the Australians were fighting a desperate withdrawal operation back along the track. During this phase they received an order from the Australian command to blow the Kokoda gap—somebody had obviously read of the battle for Thermopylae. Unfortunately, the Kokoda gap is approximately 11 kilometres wide—it was named by pilots to distinguish it from a false gap immediately to the east. It would have taken a lot of dynamite to blow it up. These ridiculous orders were on a similar scale to the security assessment just completed by the New South Wales Olympic security command centre.

My comments on this report are, first, that the proposed torch relay will be conducted during the dry season. It is possible for the relay to commence at Ower's Corner at 7 o'clock in the morning, in time for the morning news in Australia, and to finish at Kokoda at 5 o'clock in the afternoon, in time for the evening news. This will be achieved by having 100 Kioari runners, who are sons and grandsons of the legendary Fuzzy Wuzzy Angels, run one kilometre each at a seven minutes per kilometre pace. The personal record to run the track is held by Kokoda guide Osborne Bogajaiwa, who ran from Kokoda to Ower's Corner in 29 hours.

Second, the Kokoda Track runs from Central Province to Oro Province, but all the people along it are Kioari. The Kioari people want to carry the torch along the track, and anybody who knows anything about Papua New Guinea would understand that the torch will be absolutely secure in the Kioari's hands. Third, the "isolation and communication difficulties" referred to simply do not exist. In the 100 kilometres between Ower's Corner and Kokoda there are airfields at Kokoda,

Kagi, Efogi, Menari and Naoro villages. In addition, there is helicopter access at Deniki, Isuravi, Alola, Templeton's Crossing, Brigade Hill and Uberi.

Finally, during my trek last week I used a Telstra satellite phone to make calls to Australia each day. In addition, I also presented 15 high frequency radios to the Kioari Development Authority so that in the near future each village will have radio communication. The Australian Army has also installed very high frequency relay stations along the track. Consequently, one can now talk to anybody, at any time, anywhere in the world, from any location along the track.

It seems that our bureaucrats have learned nothing from the lessons of the Kokoda campaign. I have walked the track 20 times, more than any other Australian. I also have 21 years experience in the Army and would have expected to have been asked for advice if the bureaucrats were fair dinkum about preparing a proper report. One hundred days have been allocated for the Olympic torch relay to allow as many Australians as possible to celebrate the greatest sporting event at the dawn of the new millennium. I believe we should allow 99 days for this celebration and set aside just one day for commemoration. The carriage of the torch along the Kokoda Track would be a fitting tribute and a symbolic salute to the sacrifice made by past Australians to the peace and prosperity we enjoy today. I hope that SOCOG bureaucrats put their personal prejudices aside and honour the wish of all Australians that those who served and those who died so that we may live will be paid that fitting tribute.

ILLEGAL WHALING

The Hon. R. S. L. JONES [10.14 p.m.]: I bring to the attention of honourable members a shocking report I have just received from the International Fund for Animal Welfare concerning illegal trade in whale meat and products in Japan and South Korea. Sixteen years after the International Whaling Commission voted for a global moratorium on commercial whaling, and 12 years after that moratorium came into force, whale meat and products are commonly available in retail markets in Japan and South Korea. Some of this meat is from whales and dolphins—known as cetaceans—that have been caught accidentally in fishing nets or found stranded on shore. Some of the meat in Japan has been found to have come from scientific whaling in the North Pacific and the Southern Ocean whale sanctuary; from legal hunting of small cetaceans such as dolphins and porpoises; and from stockpiles of past whaling operations.

However, this new report called "Whale for Sale" by the International Fund for Animal Welfare suggests that illegal hunting and smuggling of whale meat and products may be common in both Korea and Japan. IFAW researchers bought whale meat samples from markets in both countries. The samples were then subjected to DNA analysis by researchers from Harvard University, the University of Hawaii and the University of Auckland. Altogether, between 1993 and 1998, 419 whale meat samples were analysed for the report.

Analysis of the samples provided the following results: among the whale and dolphin products found for sale in Japan and South Korea, DNA analysis found samples to be from a wide variety of species, including southern and northern hemisphere minke whales; fin, blue, sei, Brydes and humpback whales; and three or four species of dolphins known as "kujira," the Japanese term for whale. DNA analysis of a sample of humpback whale meat bought in Japan in March 1997 provided a match to a whale found off Mexico that was sampled by biopsy. At present there is no known interchange between humpbacks off Mexico and those off Japan. Available evidence therefore suggests that this whale was killed illegally and smuggled into Japan. Humpback whales have been legally protected worldwide since 1966.

Fin whale products were found in larger quantities than would be expected from the amount available from exports of meat from Iceland's scientific whaling program. This scientific whaling, which at the time was the only legal fin whaling in existence, ended in 1989 and the last recorded import of Icelandic fin whale meat into Japan was in 1991. One sample was identified as a blue whale, which has been protected from commercial whaling since 1965. Comparison with samples in DNA libraries worldwide showed that the DNA sequence was almost identical to a blue/fin hybrid caught by Icelandic whalers in 1979. Further research is necessary to determine if the sample was from a blue or a hybrid.

Several Brydes whale products were found in the commercial markets of Japan and Korea. Japan has not legally hunted this species since 1987. DNA analysis of one whale meat sample bought in 1988 showed that it was from a southern hemisphere sei whale. The last legal whaling of southern hemisphere sei whales was in 1979. The DNA of a large percentage of the minke whale products on sale in Korea was indistinguishable from those in Japan. This suggests that some whale products are being smuggled between Japan and Korea or that

illegal hunting is more widespread than is admitted by either country. Two samples of southern minke whale products were found in Korea. These products must have been illegally imported from Japan or from whales killed illegally by Koreans or people from another country.

In addition, IFAW researchers found other things, such as a whale meat restaurant in Japan selling what it described as "illegally caught" whale meat. Another restaurant openly sold products that it claimed were from blue and sei whales. In 1996 whale meat, labelled as mackerel, was accidentally found in freezer storage in a metropolitan area in Japan. Also in 1996 the head of an extremely endangered West Pacific grey whale was found washed ashore on the Japanese island of Hokkaido. Eleven hand harpoons were found embedded in it. The Japanese Government claims not to know the origin of those harpoons.

According to the IFAW report, one of the biggest problems that emerged from the surveys was the paucity of regulations dealing with the hunting of, and trade in, endangered species of cetaceans. In this situation any legal whaling will provide a cover for the illegal exploitation of endangered species of whales. Without sufficient registration, accompanied by an independent enforcement body, trade in endangered species of whales will not be regulated, and illegal hunting of cetaceans, including endangered and protected species, will continue. It is disgraceful that Japan is quite clearly indulging in illegal practices. Australia provides fuel to Japanese whalers on their way to the southern sanctuary. I ask that this Government and the Federal Government make sure that the Japanese Government is made aware of the illegal activities taking place under the guise of scientific whaling.

DRUG LAW REFORM

The Hon. Dr MARLENE GOLDSMITH [10.19 p.m.]: I take exception to the comments made by the Hon. B. H. Vaughan in his adjournment speech about drugs. In the first place, the honourable member implied that the drug epidemic is a direct cause of child abuse and neglect in our society, or vice versa. If the honourable member really wants to look at the causes of child abuse and neglect in our society, he should look at the latest research paper from the Australian Institute of Criminology, edited by Dr Don Weatherburn and one other, which draws the unequivocal conclusion that child neglect is the major cause of juvenile delinquency and juvenile crime in Australia.

If we want to make sure that young people do not offend but grow up properly and have a chance in life, we must do away with child neglect. The very policies that the Hon. B. H. Vaughan was advocating for the conference for which he was trying to do a commercial are exactly the policies that have led to an epidemic of drug abuse in Australia. I am tired of listening to the propaganda about drug abuse, because international information reveals that the countries that are succeeding in cutting drug abuse and protecting young people from drugs are those that are taking tough policies on drugs, not go-easy policies. I am tired of hearing such policies as the honourable member is advocating.

Motion agreed to.

House adjourned at 10.21 p.m.