LEGISLATIVE COUNCIL

Friday 26 May 2000

The President (The Hon. Dr Meredith Burgmann) took the chair at 11.00 a.m.

The President offered the Prayers.

M5 EAST SINGLE EXHAUST STACK

Motion by Ms Lee Rhiannon agreed to:

1. That this House:

   (a) notes that the Roads and Traffic Authority (referred to as RTA) may not have fully and openly complied with the order of the House of 6 April 2000 to produce certain documents relating to the report of General Purpose Standing Committee No. 5, dated December 1999, (referred to as GPSC No. 5), on the inquiry into the M5 east ventilation stack,

   (b) calls on the Chief Executive of the RTA to facilitate and ensure that the Legislative Council, in its superintendence of the administration and operations of the RTA, is given access, without restriction (for example, relying on narrow interpretations of the wording of orders of the House), to documents or information held by the RTA and sought by an order of the House.

2. That, under Standing Order 18 and further to the order of the House of 6 April 2000, there be laid on the table of the House by 5.00 p.m. Thursday 1 June 2000, and made public without restricted access, the following documents in the possession, custody or power of the RTA:

   (a) documents referred to in documents provided by the RTA under the previous order of the House, namely, attachments referred to in the document "Tunnel Ventilation Workshop", including but not limited to the report "International Perspective on Tunnel Ventilation Practices", by Arnold Dix (Dix 2000) and any attachments to Dix 2000,

   (b) any other document in the possession, custody or power of the RTA, and not previously provided, which records, refers to or is incidental to or consequent on:

      (i) the order of the House of 6 April 2000,

      (ii) the report of GPSC No. 5, or

      (iii) this order of the House,

   (c) any document recording meetings between officers of the RTA, Environment Protection Authority (referred to as EPA) and Department of Urban Affairs and Planning (referred to as DUAP) since the report of GPSC No. 5, except the meeting on 20 March 2000 (already provided), which records issues relating to the M5 East Motorway,

   (d) any document recording meetings of the RTA Incident Management Working Party since the report of GPSC No. 5 which records issues relating to the M5 East Motorway,

   (e) any document from the Minister for Roads, the Parliamentary Secretary for Roads or the RTA to:

      (i) other Ministers, Departments or Authorities and local Councils,

      (ii) media organisations,

      relating to the report of GPSC No. 5,

   (f) any document received from the Department of Health relating to the report of GPSC No. 5,

   (g) any document received from the EPA relating to the report of GPSC No. 5 and in particular recommendation 5 in the report,

   (h) any report, briefing note, discussion paper or similar document, prepared by RTA staff or other persons regarding overseas travel taken since the report of GPSC No. 5 in relation to tunnel ventilation including attendance at the PIARC Technical Committees on Road Tunnel Operations in Paris in March 2000,

   (i) any document relating to a Tunnel Ventilation Workshop to be held on or about 6 June 2000,

   (j) any document prepared since the report of GPSC No. 5 for briefing Mr Dix in relation to overseas travel,

   (k) any document which records or refers to the production of documents as a result of this order of the House.

3. That anything required to be laid before the House by this resolution may be lodged with the Clerk of the House if the House is not sitting, and is deemed for all purposes to have been presented to or laid before the House and published by authority of the House.

4. Where it is considered that a document required to be tabled under this order is privileged and should not be made public or tabled:

(a) a return is to be prepared and tabled showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege, and

(b) the documents are to be delivered to the Clerk of the House by 5.00 p.m. Thursday 1 June 2000, and:

(i) made available only to Members of the Legislative Council, and

(ii) not published or copied without an order of the House.

5. That in the event of a dispute by any Member of the House communicated in writing to the Clerk as to the validity of a claim of legal professional privilege or public interest immunity in relation to a particular document:

(a) the Clerk is authorised to release the disputed document to an independent legal arbiter who is either a Queen's Counsel, a Senior Counsel or a retired Supreme Court judge, appointed by the President, for evaluation and report within 5 days as to the validity of the claim, and

(b) any report from the independent arbiter is to be tabled with the Clerk of the House, and:

(i) made available only to Members of the Legislative Council, and

(ii) not published or copied without an Order of the House.

TABLING OF PAPER

The Hon. Carmel Tebbutt tabled the following paper:

Report of the Industrial Relations Commission of New South Wales for the year ended 31 December 1999.

Ordered to be printed.

PETITION

Battery Cage Egg Production

Petition opposing the production of eggs through the use of battery cages and praying that the House will stop the unnecessary suffering of hens in battery cages, received from the **Hon. R. D. Dyer**.

CRIMES AMENDMENT (CHILD PROTECTION—EXCESSIVE PUNISHMENT) BILL

Second Reading

Debate resumed from 5 May.

The Hon. R. S. L. JONES [11.06 a.m.]: I strongly support the Crimes Amendment (Child Protection—Excessive Punishment) Bill, which is long overdue. Organisations that support this important legislation include: Gillian Calvert, New South Wales Commissioner for Children and Young People; Dr Judy Cashmore, Social Policy Research Centre, University of New South Wales, and former chairperson of the New South Wales Child Protection Council; Professor Kim Oates, Chief Executive, New Children's Hospital, Westmead; the Australian Medical Association, New South Wales Branch; the Royal Australian College of Physicians, Division of Paediatrics; the Royal Australian College of General Practitioners, New South Wales Faculty; the Law Society of New South Wales; the Community Services Commission; Centacare, Catholic Community Services; the Association of Children's Welfare Agencies; Network of Community Activities; the Youth Action Policy Association; the Federation of Parents and Citizens' Associations of New South Wales; the Human Rights and Equal Opportunity Commission; the Council of Social Service of New South Wales; the Ethnic Communities' Council of New South Wales; the Australian Federation of Islamic Councils Incorporated; and, after the recent judgment, the European Court of Human Rights.

The Blair Labour Government backs the sentiments and the intention of this bill. However, the Carr Labor Government, in this backwater of New South Wales, does not. Apparently the legislation has been torpedoed by a promise made by John Aquilina to a bunch of extreme fundamental Christians that he would not

allow the ending of the abuse of children in the home. Because of that ill-considered promise, which should never have been made in the first place, the legislation has been blocked. Other members of the Government would support it. I have received a letter from Sharon Bar-li Sa'ar, Vice Consul, Consulate General of Israel, addressed to the Hon. A. G. Corbett, which refers to the legislation of the Hon. A. G. Corbett and the judgment of the Supreme Court. The letter states:

> By a majority of 2 judges to 1 the Supreme Court sitting as the High Court of Justice held that the corporate punishment of children by their parents, as an educational method and as a disciplinary measure, is—
>
> > "**by and large unlawful**, and is a residual of a social-educational doctrine which has long been obsolete; children are not the property of their parents. They must not serve as a punch-bag, which the parent can punch at will, even when the parent believes in good faith that he acts within his duty and authority to educate his child ... resort to punishment which causes pain and degradation does not contribute to the child's personality or education, but only infringes on his or her rights as a person, and as such **it is prohibited today in our society** ... it violates their basic right to dignity as well as to mental and physical integrity."
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> The High Court of Justice also held that—
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> "violence of parents vis-a-vis their children [should be] condemned even when it is wrapped in the festive attire of 'educational philosophy', and such phenomena should be eliminated forever'." …
>
> The court stated that "we must also take into account that we are living in a society where violence is spreading like a plague. If we allow 'light' violence, it might deteriorate into very serious violence".
>
> Notwithstanding the above, the court stressed that in appropriate circumstances, parents may rely on the defences available in the Criminal Code, which determine exemptions to criminal liability in such instances when the use of reasonable force is used in order to protect the minor or those around him, and to prevent harm.
>
> ... the Israeli Government is now in the process of planning educational campaigns in the media and in schools, to provide children and the public at large with the relevant information, and to increase public awareness and sensitivity to children's rights ...
>
> In addition, a comprehensive reform is planned to take place in the realm of children's rights in Israel, following the 1997 appointment by the Minister of Justice of a committee to consider basic principles in this field, to examine their application through existing legislation, and to recommend appropriate revisions to it in light of Israel's obligations under the Convention on the Rights of the Child.

So the Israeli Government is acting on that convention. There are now many countries in which it is illegal to assault children in the home with a stick, rod, strap or piece of electrical wire. According to the fundamental Christians, if a man of 37 were to discipline his daughter of 17 with a strap or cane, that is acceptable. Would it also be acceptable to fundamental Christians if a man of 37 were to discipline his wife of 17 with a cane or hit her around the head? Is there a difference between the two? Is it all right to hit a wife but not a child? Is it all right to hit a child but not a wife? The fundamental Christians believe that it is acceptable to abuse children in the home. I wonder whether they believe it is acceptable to sexually abuse children in the home?

Apparently, according to some research, the physical abuse of children sometimes has sexual connotations. I wonder whether the fundamental Christian believe it is all right to smack and sexually abuse children in the home if the parent gets sexual pleasure from beating the child. I believe that some fundamental Christians do in fact get sexual pleasure from abusing their children in the home. That is why they do not want their actions stopped. The fundamental Christians have a very perverse view of what society is all about and how one can treat children. I have some information from the Human Rights and Equal Opportunity Commission on the subject that is titled "Concluding Observations of the UN Committee on the Rights of the Child". Of course, the fundamental Christians would have no truck with that. That information states in part:

> The Committee suggests to the State Party to take all appropriate measures, including of a legislative nature, with the aim of prohibiting corporal punishment in private schools and at home.

I stress "at home". Some people believe it is all right to beat their children at home, to whack them on the head, and to hit them with sticks and straps, but the Human Rights and Equal Opportunity Commission does not share that view. I believe that right-thinking members of this House would not believe it is all right to abuse children in the home.

The Hon. D. F. Moppett: It is illegal now.

The Hon. R. S. L. JONES: It is not illegal. The honourable member obviously has not read the law. The Human Rights and Equal Opportunity Commission document also states:

> The Committee also believes that cases of abuse and ill-treatment of children, including sexual abuse within the family, should be properly investigated, sanctions applied to perpetrators and publicity given to decisions taken in such cases.

We are ignoring the recommendations of the Human Rights and Equal Opportunity Commission. The Carr Government does not give a tinker's cuss about what the commission says. I also have a discussion paper commissioned by the Commonwealth Department of Human Services and Health of May 1995 titled "Legal and Social Aspects of the Physical Punishment of Children". It contains this statement:

> In a recent book, *Dr. Spock on Parenting (1988: 26)*, Spock stated that physical punishment:
>
> certainly plays a role in our acceptance of violence. If we are ever to turn toward a kindlier society and a safer world, a revulsion against the physical punishment of children would be a good place to start.

There is no doubt that when parents beat their children, their children grow up to be parents who beat their children. When parents sexually abuse their children, again and again we see instances of such children growing up and in turn sexually abusing their children. We have to break the cycle of violence in our society. That cycle of violence is perpetuated with the allowance of violence towards children in the home. If we allow the beating of children in the home, their physical punishment with sticks behind those four walls, we continue the cycle of violence. When those children grow up they too will be violent towards their children and other members of society.

We know that in some societies where violence is prevalent the violence is perpetuated by allowance of that violence within the home. We must put an end to the cycle of violence by banning corporal punishment of children in homes. We must tell society that hitting other people is not acceptable, whether they be children or adults, whether in the home or out in the street. It is not acceptable to hit other people. The discussion paper raises the issue of what it terms "reasonable and moderate" lawful correction. This deals with whether or not there is a defence to hitting a child with a stick. I have judgments to which I will refer to show that it is not in fact illegal to hit a child in an abusive way and cause physical damage to the child. In respect of that issue the discussion paper states:

> There are relatively few reported decisions on "lawful correction", particularly in Australia. However, judicial comments from various common law jurisdictions show the variability in how the test of the "reasonableness" of physical chastisement has been applied over the past century ...
>
> There is now, however, research evidence that physical punishment of children is not effective for either parental "training" or academic education.
>
> Although it has been said that there are "exceedingly strict limits", there is little certainty as to what constitutes "lawful correction".

The discussion paper refers to a number of cases, but there are few such cases to which one can refer. One occurred in 1959 in Queensland:

> A teacher slapped a fifteen-year-old boy twice with an open hand. Held that while, prima facie, punishment inflicted by blows on the head is unreasonable because it is liable to produce unexpectedly serious results, the magistrate was entitled to find that the slaps on the face were not hard blows and did not in fact cause any injury.

Another case referred to was in 1970 in Canada:

> It was held that a slap on the face for impertinence that allegedly chipped a tooth was reasonable.

The discussion paper noted that in 1992 in the United Kingdom:

> A case against a father of causing actual bodily harm to his son was dismissed. The child had been beaten with a belt causing bruising to his face.

In 1985 in the United Kingdom it notes:

> A teacher who burst a boy's eardrum by slapping him around the face, was acquitted of assault causing actual bodily harm.

The discussion paper notes regarding a 1992 case in Ontario:

> A mother hit her 11-year-old daughter with a belt 10 to 15 times leaving welts. The daughter had messed up her room and blamed her sister. The judge ruled the mother technically guilty but not deserving of punishment because "parents are entitled to use a belt, given the circumstances. There are welts but I guess you expect to find welts when you use a belt."

Therefore I say it has been judged to be legal to use a belt to harm the child, to hit the child on the head, and even to cause a burst eardrum. Therefore children can be beaten by their parents and harm can be caused and, according to this case law, that is still legal. The Hon. A. G. Corbett referred to a very interesting case in his speech called *A v the United Kingdom*. I quote from the case commentary introduction:

> Since the provision of a more effective civil reaction to partner-assault in 1976—following the clear criminalisation of wife-beating in 1891—the hitting of children remains, for the moment, a prime example of the privacy model of family life and family law. The 1998 Government consultation paper *Supporting Families* states: 'The truth is that families are, and always will be, mainly shaped by private choices well beyond the influence of government. That is how it should be. But that is no excuse for government not to do what it can.
>
> Although we await (in the light of the instant case) a further consultation paper on 'how the law could be improved in order to protect children better', the Government does 'not consider that the right way to do so is to ban all physical punishment' (although there is no intention, as logically there might be, to restore it for grown-ups).

In other words, it is all right to hit and beat children but it is still not all right to beat adults. The case commentary refers to article 19 of the 1989 United Nations Convention on the Rights of the Child, which states:

> 1. States parties shall take all appropriate legislative, administrative social and educational measures to protect the child from all forms of physical ... violence ... while in the care of parent(s), legal guardians, or any other person who has care of the child.
>
> 2. Such protective measures should, as appropriate, include ... judicial involvement.

It states further:

> The state no longer metes out physical punishment to citizens of any age, schoolteachers may no longer hit children (an abolition which did not, at least automatically, go through an intermediate phase), children are generally safe from their elder siblings and childminders and there are now some eight or so other countries in which their parents cannot hit them. Even here, parents are not now allowed (as a result of the effect of different social standards on the egregious "reasonableness" criterion) to hit their children as hard as they once could, and the implements of a past age—such as birch-rods, which were once commercially produced for the purpose—would now be difficult to wield legally.

A number of countries have moved ahead into the new century. They are no longer stuck in the nineteenth century, as are so many other people, such as the fundamental Christians, who think it is all right to beat a child in the home. These countries are moving towards an appreciation and an understanding of the fact that children have rights. Young people have rights. They do not deserve to be beaten. It should not be legal for parents to hit them over the head or on the neck with implements such as a stick or a piece of electrical wiring. We should move forward into the twenty-first century and not lag behind in the nineteenth century where it is still okay to hit children but it is not okay to hit another adult, which is quite ridiculous discrimination. Further in the commentary is the following reference:

> Yet although we are closer to such a day than when Hall was able to refer to the rather bizarre suggestion recently made that children "need a charter to protect them against the constant violation of their basic rights by adults", the reality is that many will still be attracted by Wald's appeal to the practical difficulties of invading family privacy, preventing parents from setting a curfew, not buying Christmas presents, or giving the child a spanking? ... [It is] unrealistic unless we are prepared to place an outside monitor in every home to eliminate the authority parents have stemming from their greater strength and economic power.
>
> This is, of course, pretty much the same argument which was proffered by those who—strange as it may now seem—opposed the criminalising of wife-rape as recently as the beginning of this decade.

So the State does interfere in the home. It is no longer legal for any man to rape his wife, though it was legal some years ago. Men do not have automatic rights over their wives and women do not have automatic rights over their husbands. Parents should not have automatic rights to beat up their children. Those who believe that we should still have the right to physically abuse our children will, of course, continue that cycle of violence. The commentary then states:

> None of the legal systems which have turned their backs on child-beating have since changed their minds. By 1957 the 1891 decision of the Court of Appeal to preclude the husband from confining his wife in the name of consortium, was being described as having ended "his right to treat his wife as he would a recalcitrant animal": perhaps similar expressions of distaste will one day follow the abolition of CP [corporal punishment] carried out in the name of PR [parental responsibility].
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> In A v UK the child, A, was aged 6 when he and his brother were placed on the child protection register in 1991 after their mother's unmarried partner received a police caution for hitting A with a cane … A was examined by a consultant paediatrician who found:
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> (1) a fresh linear bruise on the back of the right thigh, consistent with a blow from a garden cane, probably within the preceding twenty-four hours;
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> (2) a double linear bruise on the a back of the left calf, consistent with two separate blows given some time before the first injury;
>
> (3) two lines on the back of the left thigh, probably caused by two blows inflicted previously;

> (4) three linear bruises on the right bottom, consistent with three blows, possibly given at different times and up to one week old; and
>
> (5) a fading linear bruise several days old.
>
> The judge directed that:
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> It is a perfectly good defence that the alleged assault was merely the correcting of a child by its (sic) parent, in this case the stepfather, provided that the correction be moderate in the manner, the instrument and the quantity of it. Or, to put it in another way, reasonable. It is not for the defendant to prove it was lawful correction. It is for the prosecution to prove it was not.
>
> The accused was acquitted on a majority verdict.

The Hon. A. G. Corbett referred to that case in his speech. That case finally ended up in the European Court of Human Rights. As a result, the Blair Government is now introducing legislation to prohibit the abuse of children by sticks and other implements. So the Blair Government accepted the court's decision and it is now moving into the twenty-first century by stopping that form of abuse of children. I referred earlier to the semi-pornographic implications of child smacking—a matter about which the fundamental Christians should be aware. I refer again to the case commentary *A v United Kingdom*, which states:

> The need to dwell on the details necessitates a repetitive, quasi-prurient, form of examination. In view of the semi-pornographic implications—implications which question the wisdom of the apologists' use of the term "loving smack"—we might take this opportunity to deal with the sexual connotations of the matter. Whilst adults who (ab)use their authority to gratify their libidos represent a powerful argument against child-beating, it is important (if perhaps not equally so) that sexual pluralism does not itself become an innocent victim. Adults who engage *with other adults* in such behaviour are no more likely to approach children for this purpose than are other grown-ups with more direct sexual misbehaviour in mind: and like beaten children their wishes may also fall on deaf legal ears and public disapproval. In fact "sado-masochists" may be less, not more, likely to beat their children. Following its consultation paper *Consent and Offences Against the Person*, the (England and Wales) Law Commission subsequently reported that: "A respondent who was a practising sado-masochist commented that from a sado-masochistic perspective the caning of children can only be regarded as rape".

[*Time expired.*]

The Hon. J. P. HANNAFORD [11.26 a.m.]: I support the Crimes Amendment (Child Protection—Excessive Punishment) Bill. The Coalition made a decision in the party room to oppose this bill. I will leave it to others to justify that decision, because I will vote for the bill at its second reading stage. Honourable members use the debate on the second reading of a bill to indicate whether or not, as a matter of principle, the direction advocated in a bill is the direction that ought to be embraced by the parliamentary institution. This bill will establish whether or not we, as a Parliament, believe that some statement should be made as to the relationship and the rights of parents and children in the exercise of reasonable punishment—a corrective or disciplinary measure.

The Parliament must make such a statement. If the bill passes through its second reading stage the detail of it would then be dealt with in Committee. If honourable members disagree with that detail they will seek to move amendments in Committee. However, if we believe that the bill does not go in the direction in which we want to go we will vote to defeat it at its third reading. We must encapsulate in a statutory form provisions relating to the relationship between parents and children and the exercise by parents of reasonable discipline. Several years ago a former member of this House, the Hon. Judith Jakins, constantly attacked the United Nations Convention on the Rights of the Child. She constantly said that that convention meant that parents would never be able to discipline their children again and that that was what would end up happening.

The Hon. D. F. Moppett: She is still saying it.

The Hon. J. P. HANNAFORD: I used to ridicule the Hon. Judith Jakins for saying that, but today she has been justified. When I was Attorney General I used to travel around the State and people used to say to me that they did not have the right as parents to exercise reasonable discipline of their children. They felt that if they exercised any discipline of their children they would face the risk of officers of the Department of Community Services appearing on their doorsteps and threatening to take away their children because they had abused them by doing what they believed was reasonable in their discipline.

Constantly I have to say to the community that that is not the law. The law is that parents have the right of reasonable chastisement of their children. In my 3½ years as Attorney General I became so fed up with having to tell people they have the right of reasonable chastisement that I made the decision that had we been returned to government in 1995 and had I been Attorney General I would have introduced legislation stating that parents have the reasonable right of chastisement. It is good enough for other States to have such a law.

According to the common law, parents have the reasonable right of chastisement, but parents constantly say, "Please make it clear to us what our rights are." They want Parliament to say they have the right to reasonably discipline their children. They want to know the law, they want to know where they stand. They do not want government officers coming to their doorsteps because someone has complained and they do not want to have to convince that officer that they are being reasonable parents. Parents do not want teachers to feel that they have to report them when their children say they received a slap on the backside last night. Parliament ought to make clear what are the reasonable rights between a parent and a child.

The shadow Attorney General has proposed in my party room that we ought to oppose this bill, and I will leave it to him to explain why. I will not try to, because I believe Parliament ought to make a statement about the position. My party room has made the decision and I will support it. However, within my party room I will continue to advocate a position contrary to that and hope that the Government and the Opposition will make a statement to Parliament. Why is it reasonable for Queensland to say in section 280 of its Criminal Code:

> It is lawful for a parent … to use … towards a child … such force as is reasonable … under the circumstances.

Why is it reasonable for Tasmania to say in section 50 of its Criminal Code:

> It is lawful for a parent or a person in the place of a parent … to use, by way of correction, towards a child … such force as is reasonable under the circumstances.

Why in Western Australia is it reasonable for section 257 of its Criminal Code to say:

> It is lawful for a parent or a person in the place of a parent … to use, by way of correction, towards a child … under his care, such force as is reasonable under the circumstances.

The Hon. R. S. L. Jones: What is reasonable?

The Hon. J. P. HANNAFORD: It is for the courts to make a determination based on the circumstances. I do not want to be associated with the position taken by the Hon. R. S. L. Jones. I thought he was unreasonably over the top in this debate. Those sorts of comments seek to divide the community rather than bring it together to address this issue. The matter was dealt with in much detail in a report issued in September 1998 and prepared by the Model Criminal Code Officers Committee, which reports to the Standing Committee of Attorneys-General. Page 135 of that report contains the following comment, which, I believe, encapsulates what I had to say earlier about the view in the community:

> Articles 28(2) and 37 of the *Convention on the Rights of the Child* have been interpreted by some signatories as requiring the prohibition of correction by force or, in the case of Australian law, complete removal of the defence. The position of the Australian Government is that the Convention should not be interpreted in that way because the Convention outlaws "torture or other cruel, inhuman or degrading treatment or punishment " and not *all* punishment (relying on *Campbell and Cosans*, a decision of the European Court of Human Rights).

The Model Criminal Code Officers Committee recognises that people are saying there must be no punishment at all, the approach taken by the Hon. R. S. L. Jones. I take the view that parents ought to be able to exercise reasonable chastisement of their children and that Parliament should make a statement that that is the position. Is the bill proposed by the Hon. A. G. Corbett unreasonable in that regard? I do not believe it is. The bill provides:

> In criminal proceedings brought against a person arising out of the application of physical force to a child, it is a defence that the force was applied for the purpose of discipline, management or control of the child …

The bill makes that clear statement, but goes on:

> but only if:
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> > the … force was applied by the parent of the child or by a person acting for a parent of the child.

That is a reasonable statement; and only if:

> the application of that … force was reasonable, having regard to the age, health, maturity and other characteristics of the child, the nature of the alleged misbehaviour, or other circumstances.

Again, reasonable force—reasonable in the circumstances. I agree with that qualification. It goes on to say that the application of physical force is not reasonable if the force is applied by the use of a stick, belt, or other object. Most of us would take the view that using weapons on a child is not appropriate, but all of us are familiar with the threat of a wooden spoon. How many of us have thought about taking up a wooden spoon and putting it

around a kid's legs? I have experienced it. Others have most likely done it. Does the legislation outlaw that activity? My view is that it does not. The legislation has two exclusions. It says the physical force is not reasonable if:

> the force is applied by the use of a stick, belt or other object (other than an open hand …).

So it says parents can use an open hand on a child by way of chastisement or correction. Nobody, I believe, would regard that as unreasonable. It also goes on to say:

> the force is applied by the use of a stick, belt or other object (… other than in a manner that could reasonably be considered trivial or negligible in all the circumstances) …

Most of us would not want to use a wooden spoon around the legs. The vast majority of families do not use it, but some do; it is part of reasonable discipline at the time and it is not outlawed.

Reverend the Hon. F. J. Nile: Why should the parents be in court having to defend themselves?

The Hon. J. P. HANNAFORD: It is the law today, and people want to know what the law is. The view in the community today, because it is the common law, is the view that the Hon. Judith Jakins said was the position when she was a member of this House and, as the Model Criminal Code Officers Committee say, it is the perception in the community that one cannot use any force.

Reverend the Hon. F. J. Nile: This bill helps to create that problem.

The Hon. J. P. HANNAFORD: It does not. The honourable member is fundamentally wrong. The honourable member might say that—and he will take his advice from wherever he wants to—but the Law Society takes the view that this is a reasonable encapsulation of the common law. The Bar Association takes the view that this is a reasonable encapsulation of common law. The following organisations also believe the legislation should be supported: the division of paediatrics of the Royal Australian College of Physicians; the Royal Australian College of General Practitioners; the Australian Medical Association; Professor Kim Oates of the Children's Hospital; the New South Wales Commissioner for Children and Young People; the Community Services Commission; the Human Rights and Equal Opportunity Commission; the Ethnic Communities Council of New South Wales; the Australian Federation of Islamic Councils; the Australian Catholic Social Welfare Commission; Centrecare, the Catholic community services organisation; the Association of Children's Welfare Agencies; the Council of Social Services of New South Wales; the Youth Action Policy Association; the Federation of Parents and Citizens Associations; the Network of Community Activities; as well as Dr Judy Cashmore, the former chair of the New South Wales Child Protection Council.

Is everybody wrong? The fundamental question for the Government and the Opposition—and this is the issue—is whether the Parliament should give guidance to the community by legislating that parents have the right to reasonably chastise their children when exercising their parental responsibilities. Or do we leave it to the common law, although the view in the community at present is that the law does not allow parents to exercise that reasonable discipline of their children?

Reverend the Hon. F. J. Nile: That's because of this bill.

The Hon. J. P. HANNAFORD: It is not because of this bill. It is because of the international convention and the way that people have advocated the impact of the international convention. It has been acknowledged by the Federal Government and in reports that the international convention has been interpreted by countries other than Australia as requiring the total prohibition of any discipline of children by parents, and people are advocating that that is the way the international convention should be interpreted in Australia. That is why we need a clear statement from the Parliament.

Reverend the Hon. F. J. Nile: That is why we oppose the bill. We can make a clear statement without this bill.

The Hon. J. P. HANNAFORD: We can amend the bill. Basically, the bill, which has been watered down about four times, encapsulates a statement of the common law in relation to the use of reasonable force and the way to reasonably discipline children. It comes back to this question: Should the Parliament express a statement that gives clear guidance to the community? I am of the view that that is necessary because of the absolute confusion and, in some cases, the fear that exists in the community. The Parliament should show leadership by providing a statement to parents.

Reverend the Hon. F. J. Nile: Then just issue a statement rather than pass the bill.

The Hon. J. P. HANNAFORD: A bill is a statement of the law. A bill is a statement of the way the legal system will operate. A resolution of the Parliament is a statement of how we feel. People want to know what the law is. Therefore, let us tell them what the law is and give them some guidance. Do not be wishy-washy and do not be gutless about saying to parents, "This is what you are entitled to do. You will not be intimidated by Government agencies, and you will not be intimidated by fear because you do not know where you stand." That is exactly what will happen if this bill is defeated. Regrettably, I think the bill will be defeated, but I should like the Government to make a statement, not along the minimalist lines in the other States, but along the lines of this bill so that people know where they stand.

The Hon. HELEN SHAM-HO [11.43 a.m.]: I support the Crimes Amendment (Child Protection—Excessive Punishment) Bill, the purpose of which is to limit the use of excessive physical force to discipline, manage or control a child. The bill codifies the common law provision of the defence of lawful correction. This defence is to be limited to parents or surrogate parents only. The bill seeks to amend section 61AA of the Crimes Act 1900 to exclude the defence of lawful correction in circumstances where the physical force used to punish the child is applied by the use of a stick, belt or other object to any part of the child's head or neck in such a way as to cause or threaten to cause harm to the child which lasts for more than a short period.

Initially I had reservations about the bill, but on balance I endorse it and I will vote for it. Although the Coalition will not support the bill, I was glad to hear the Hon. J. P. Hannaford indicate his support for it. The law as it currently stands exposes both parents and children to vague and unclear common law rules regarding the physical punishment of children. The Hon. J. P. Hannaford clearly outlined the vagueness of the common law, and I concur with what he said.

[*Interruption*]

The Hon. J. P. Hannaford's speech was excellent but I will not go into it in detail. In general terms, the defence of lawful correction provides that a person may lawfully administer corporal punishment to a child if that course is reasonable in all the circumstances. This bill is a positive step towards providing greater certainty and clarification with regard to the judicial interpretation of reasonable correction and specifically excluding the application of force of a type that could seriously injure young children.

I tend initially not to agree that smacking with an open hand should be the only acceptable method for parents to administer discipline to their children. As the Hon. J. P. Hannaford said, sometimes a wooden spoon can be useful when used reasonably; it can be used as a symbol of discipline and authority. That is what the bill is all about. It is about letting a child know immediately that what he or she does should be corrected. It is common ground that the number of cases of child abuse reported to the police or to hospitals, or notified to Government departments, such as the Department of Community Services, has risen dramatically in recent years. Notified cases of child abuse in New South Wales in 1987 totalled 19,022, and by 1995 had almost doubled.

The need for this bill is most obviously illustrated if we look at the possible adverse effects on a child's physical health following the use of inappropriate physical punishment. For instance, children may suffer pain, contusions, burns, fractures, concussion, brain damage and long-term disability. In particular, striking a child on the head or neck may result in detached retinas, perforated eardrums, haemorrhages, brain damage or even death. Then there are the emotional and social effects of past physical punishment on children.

The New South Wales Department of Health has found that children who are subjected to harsh physical punishment often see themselves as bad and needing to be punished, are more likely to be delinquent or drug and alcohol abusers, and often suffer from accident proneness, self punishment-mutilation, poor school performance, low self-esteem and depression. I draw the attention of honourable members to the distinction between the crime of unreasonable lawful correction and the offence of assault. Under section 61 of the Crimes Act 1900 a basic assault offence carries a maximum of two years imprisonment. The law provides no specific defence for the crime of simple, common or aggravated assault. Under this bill, however, there is a very definite defence to the offence of unreasonable lawful correction. The bill does not criminalise corrective smacking by a parent or guardian so long as the force used is reasonable.

In addition, the bill provides an exemption for the use of force to the head or neck, or the use of implements in a manner that could reasonably be considered trivial or negligible in all the circumstances. This

qualification ensures that parents will not have to fear being prosecuted for trivial matters. It is also relevant to note that the bill's provisions do not increase the power of the Department of Community Services [DOCS] and the police, and only come into effect when a person who is charged with assaulting a child appears before a court and attempts to defend the charge by using the defence of lawful correction. Therefore the process that the Police Service, the Department of Community Services and the Department of Public Prosecutions undertake prior to a judicial hearing is not affected by this bill. The process is laid down in the Interagency Guidelines for Child Protection Intervention, which have been adopted by all New South Wales government departments and agencies involved in child protection.

As I have training in social work and a professional background, I consider that education is most important to achieve prevention, and that in combination with legislation it is the best way to deal with the problem of harsh physical punishment of children. Dr Judy Cashmore, a former chair of the New South Wales Child Protection Council—who, incidentally, supported this bill—has stated:

> Legislation and parent education together provide the best means of achieving the objective of the Bill. The research evidence indicates that parent education by itself is not an effective way to change personal attitudes and behaviour towards children.

The Commissioner for Children and Young People has also publicly supported the bill and is willing to assist in the public education of parents on the bill and more appropriate means of disciplining children. In conclusion, I believe that the proposed legislation strikes a balance between the need to protect children and the ability of parents and caregivers to provide children with appropriate levels of guidance and discipline. I commend the bill to the House.

The Hon. J. F. RYAN [11.52 a.m.]: The Opposition recognises that this bill presents some difficult issues and believes that those issues are worthy of detailed discussion. The Opposition will not support the bill, but that does not mean we are not committed to reducing child abuse or that we believe that parents, teachers or caregivers should have an unfettered right to do whatever they like to a child in the interests of providing discipline. Some members may call this bill harebrained or radical, but the Opposition recognises that this sort of legislation, whilst it is always controversial, is not without some justification.

On the one hand the bill merely codifies the common law and provides clarity. It is already illegal in this State to punish a child beyond what is reasonable. However, few people can define with absolute clarity exactly what constitutes reasonable punishment. Others may regard it as being dangerous or intrusive on the family to try to give an exact legal definition to such a difficult construct as "reasonable correction". The concern is that public opinion about what may constitute reasonable punishment is so diverse and changes so rapidly that well-meaning attempts to codify this difficult concept may have unintended consequences, may make criminals out of people who had the best intentions, or may cause other harmful effects on what might be an otherwise successful and happy family.

Others, such as Susan Bastik of the Australian Family Association, regard a bill such as this as an attack on the rights of parents. While Susan Bastik acknowledges that it is a grey area of the law, she says there is a distinction between discipline and abuse. In her opinion, regulating the way parents discipline their children erodes parental authority. It may come as a surprise to some to learn that four Australian States or Territories—Western Australia, Queensland, Tasmania and the Northern Territory—have codified common law definitions in relation to child punishment into statutory law. Earlier in this debate the Hon. J. P. Hannaford referred to most of them. What they all have in common, however, is that they tend to use the benchmark of reasonableness.

There may be many arguments about what constitutes reasonable correction. It can be argued that the element of reasonableness allows the common law and statutory defences to take account of changing standards of what constitutes acceptable force. It has been said that words such as "due", "moderate", "necessary" and "reasonable" as applied to chastisement are ever changing according to the ideas prevailing in our minds according to the period and conditions in which we live. A jurist in the case of *Cleary v Booth* said:

> What is "reasonable" must be a matter of degree and will depend in large measure on what can be perceived to be the current social view at any given time.

Similarly, reasonableness permits some degree of local determination in deciding which punishments amount to criminal assault rather than lawful correction. On the other hand, the concept of reasonableness can be so inflexible in its application and so imprecise and uncertain that it cannot provide clear guidance as to the legal limits of lawful correction. Indeed, Justice Kennedy of the Supreme Court of Western Australia, in determining an issue relating to punishment, stated that cases regarding reasonable punishment provide very little guidance for future cases, because their circumstances are so infinitely variable.

There are very few reported decisions on lawful correction, particularly in Australia., but I will detail a couple of cases in which outcomes appear to have been very different. In a recent Western Australian case a father was found to have assaulted his son when he beat him with a stick for cutting a bean bag. In his summing up the judge told the jury that the critical issue was not whether the force had been reasonable—the father's right to use a stick was not questioned. In other cases adults have been acquitted of assault charges after using belts, chains and electrical cords on children.

The case law in Australia is divided. The problem about using case law is that in order to find out what the law is it is necessary for someone to be punished or possibly assaulted; it is necessary for someone to be brought before the courts; and it is necessary for someone to make a decision. I am sure very few members of this House, regardless of their view on the bill, would not agree with the suggestion put to the House by the Hon. J. P. Hannaford that there are some difficulties in determining what constitutes reasonable correction. In fact, it might be useful to have a bill that defines clearly, for the benefit and guidance of parents and officials such as officers of the Department of Community Services, what constitutes reasonable correction.

In the time available to me I am not sure whether I will have the opportunity to refer to all the cases on this point. However, I will illustrate a few cases in Great Britain in which completely different conclusions were reached on what constituted reasonable correction. For example, one case involved a man in the emergency department of a dental surgery. His eight-year-old daughter baulked at the prospect of having an injection to enable a tooth to be extracted. For 40 minutes the father remonstrated with his daughter, trying to reason with her to get her into the dentist's chair. Eventually the man lost his patience with his daughter, held her over his knee, pulled down her leggings and underwear, and smacked her on the bare bottom up to seven times. Allegedly the girl screamed, "Daddy, please don't hit me" and ran out of the waiting room. She hid behind a member of the staff, who came to her aid as her father continued to try to smack her. Realising the gravity of the situation, the man immediately went to the police station and confessed to the incident. He was charged, and eventually he was convicted of assault. One might say that this is a circumstance that has been seen over and again. It may well be that had there been in place a law that made matters clear, that man would not have taken the action he took. In any event, the British courts considered that his action constituted an assault.

In another case, *Guest v Annan*, in 1988—not so long ago—a father smacked his eight-year-old daughter for failing to return home at an appointed time, because she had lied about whom she had been with. She received a bruise on her bottom from the smacks. The force of the blows was found to have been excessive but because he was not considered to have had evil intent, he was not convicted. The problem is that each different case can have a completely different outcome. The Opposition is in no way scoffing at the attempt to try to clarify these matters but on this day and at this time, the Opposition does not support the legislation because of the dangers I referred to earlier. Nevertheless, members of the Opposition accept that this legislation is a serious attempt to deal with a very difficult issue.

One of the problems of determining what is reasonable is that different standards apply throughout the community and, as I suspect Reverend the Hon. F. J. Nile will tell the House at a later stage, even among different cultural groups within our multicultural society. For example, in France the criminal law states that whoever voluntarily strikes a child of less than 15 years of age or whoever commits violence—excepting light violence—upon or comes to blows with a child of less than 15 years of age will be punished. "Light violence" is defined in France's criminal statute as " … that which would result in a sickness or total incapacity to do personal work for more than eight days". Most honourable members would regard that as a more extreme version of permitting smacking. Most honourable members would regard as excessive incapacitation for work for even a single day but that is the standard set by law in a modern and developed country such as France. Other English-speaking jurisdictions apply the concept of grievous bodily harm.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

WORKCOVER INSURANCE SCHEME DEFICIT

The Hon. M. J. GALLACHER: My question without notice is directed to the Special Minister of State, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast. Is he aware that the Auditor-General has predicted that the workers

compensation deficit will grow to $2.6 billion by June 2004? Is it a fact that he also has information which shows that the figure is actually higher than the Auditor-General's prediction and could amount to a staggering $4 billion within five years—one-seventh of the State's budget?

The Hon. J. J. DELLA BOSCA: At the risk of repeating the answers I gaveto a number of questions that were asked during yesterday's question time, I point out that I have already given full information to the House about previous and latest reports from the scheme's actuaries. Moreover, I have already given the Leader of the Opposition a detailed response on the evaluation of the WorkCover scheme which included the fact that, as a result of the reforms undertaken by the Government, in October 1999 the evaluation showed that the scheme had improved substantially and that the underlying cost of the scheme had decreased to 2.95 per cent.

On previous occasions in this House, in response to a question in similar terms but without the additional prognostications of the Auditor-General, I have also mentioned that the positive start has not translated into a long-term affordable scheme. Many of the gains from injury management and other reforms appear to have stalled in the last six months. There are a number of other aspects in respect of the debts of the scheme and projections that I have said will be the subject of a more detailed announcement in the near future. As I said yesterday, the Leader of the Opposition, in common with the Deputy Leader of the Opposition, will have to wait for some further detail, but he will not have to wait long.

The Hon. M. J. GALLACHER: I ask a supplementary question. In the light of the Minister's answer, will he now tell the House how his planned removal of cross-subsidies will impact on small business? Does that mean that over 69,000 small business employers will face increases in their premiums of 50 per cent or more?

The Hon. J. J. DELLA BOSCA: The Leader of the Opposition's forensic skills have failed him yet again. The question he has asked is not supplementary to the substantive question he asked me. I could take a point of order and draw that to the attention of Madam President, but I will not tax the interpretative skills of the House. Instead, I will simply make the point in regard to the Leader of the Opposition's second question—not his supplementary question—that, as I said, in the near future there will be more information on the scheme's reforms and their implications for the WorkCover scheme as well as information on some of the current fundamental and underlying aspects of the operation of the scheme. The Leader of the Opposition will have to wait, but he will not have to wait long.

As I have said on previous occasions in relation to small business, it is dangerous and a trait of false analysis to link the notion of the unwinding of cross-subsidies to a burden on small businesses because in fact in many instances the opposite is the case. I notice that the Treasurer is nodding his head in agreement. These issues have to be examined very carefully and rationally, and should not be a game of political sport, which is apparently what the Leader of the Opposition intends.

HIGH GROWTH BUSINESS PROGRAM

The Hon. I. M. MACDONALD: My question without notice is directed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Will the Treasurer provide examples of firms that are benefiting as a result of participation in the High Growth Business program?

The Hon. M. R. EGAN: I inform the House that since the Government launched its High Growth Business Program in July 1998—which is less than two years ago—more than 1,700 companies throughout the State have benefited from additional investment and increased exports and employment. As the House is aware, the High Growth Business program is designed to help companies that are exposed to global competition to expand and develop their businesses. The program provides funding for export development plans. It offers specialised business planning advice and provides support for companies that are embarking on trade mission and market visits.

As part of the program, regular forums and workshops for high growth companies are also held. In the last few years, a number of companies have used the program to great advantage. One of these is Arrow Commodities Pty Ltd, which is a Sydney-based commodity broker established in 1997 and which specialises in animal and vegetable protein meals. From a modest base, the company now has a turnover in excess of $15 million of which over half is exported. The company was recently approached by Camilleri Stockfeeds Pty Ltd, which is a Maroota-based company. Where is Maroota?

The Hon. D. J. Gay: Victoria.

The Hon. M. R. EGAN: I thought it must have been because the names sounds Victorian.

The Hon. J. P. Hannaford: It is near Mudgee.

The Hon. M. R. EGAN: It is in New South Wales. I am indebted to the Hon. J. P. Hannaford because the leader of the National Party in this House did not even know where a New South Wales country town is. I set a trap and he fell into it.

The Hon. D. J. Gay: The Treasurer agreed with me.

The Hon. M. R. EGAN: I did not know. I quite frankly admit that I did not know and that is why I asked where it is. But I would have thought the leader of the National Party would have known. I should have asked someone from Country Labor who would have known. The leader of the National Party did not have a clue.

[*Interruption*]

The PRESIDENT: Order! I ask honourable members to keep their chatter down.

The Hon. M. R. EGAN: Camilleri Stockfeeds Pty Ltd produces animal protein meals that are supplied to pet food manufacturers. As a result of continuous expansion, Camilleri had surplus production. The Department of State and Regional Development is assisting Arrow Commodities to undertake market research to identify potential customers in France, Germany, the Netherlands and Belgium. Camilleri's managing director, David Satchwell, stated:

> The Department of State and Regional Development 's response was fantastic. From the time of the initial contact to the time we had approval to proceed with the project took less than 48 hours.

I congratulate the department not only on its quick response in this instance but also on its work generally with the High Growth Business program. As I said earlier, some 1,700 companies throughout the State have been assisted with exports. One of the keys to Australia's economic future is ensuring that Australia's very industrious and enterprising companies are able to break into export markets.

STATE-OWNED CORPORATIONS COMMERCIAL PERFORMANCE

The Hon. D. J. GAY: My question is to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. In his role as a shareholding Minister of State-owned corporations—

The Hon. J. J. Della Bosca: Which one?

The Hon. D. J. GAY: All of them—does the Treasurer negotiate performance agreements with each of the State-owned enterprises? Will the Treasurer specify expected rates of return on capital and the expected level of financial distribution payments? Should the Treasurer receive regular progress reports on the commercial performance of those State-owned enterprises?

The Hon. M. R. EGAN: Each year, with the assistance of Treasury, the shareholders negotiate a statement of corporate intent [SCI]. We have a different tag for the State-owned corporations and the other government trading enterprises [GTEs] and occasionally I get the two names confused. An SCI certainly cover things like the level of distributions going forward. Treasury receives quarterly updates on performance and I receive summary reports of those. We are currently making some changes to the kinds of information we are requiring from State-owned corporations in preparation of these draft statements of corporate intent and information we require for the annual meeting that we hold with those corporations.

The Hon. D. J. GAY: I ask a supplementary question. In light of the Treasurer's answer regarding the receipt of reports on commercial performance, did the Treasurer receive a report from Integral Energy on the financial implications of the ongoing problems with the customer service system [CSS] billing system? If not, would the Treasurer urgently request a report into the financial implications of those problems?

The Hon. M. R. EGAN: I cannot recall if I have received any specific information on that issue. I am aware that there have been some difficulties with it.

The Hon. M. J. Gallacher: Have there what!

The Hon. M. R. EGAN: There have been, that is right. As the honourable member would also be aware, subsequent to those difficulties Integral Energy has not only a new chief executive but also a new board.

NATIVE VEGETATION

The Hon. I. COHEN: I ask a question of the Special Minister of State, representing the Minister for Agriculture, and Minister for Land and Water Conservation. Is the Minister aware that up to 30,000 hectares of Coolabah box trees have been sprayed and are dying, and are currently being bulldozed on the property called "Yarrawa" eight kilometres south-west of Weemelah approximately 20 kilometres south-east of Mungindi on the north-west plains of New South Wales? Is the Minister aware that that would constitute the largest breach of the Native Vegetation Act since its inception in 1988? Is the Department of Land and Water Conservation going to prosecute this appalling breach of the Native Vegetation Act?

The Hon. J. J. DELLA BOSCA: I will have to ask the Minister in the other place to provide the honourable member with answers about the incident he has cited. Native vegetation is a central aspect of the work of the Department of Land and Water Conservation. As honourable members would know, the Minister has been pre-eminent in a number of the initiatives, for example, native vegetation mapping, a co-ordinated New South Wales Government approach to salinity that culminated in the Salinity Summit in Dubbo, which brought Government representatives together with land-holders, salinity experts, community leaders and other interested groups and individuals to find best practice solutions to deal with water management issues. The white paper outlines the Government's preferred position on water management and continues the program of progressive reforms by the current Minister. Therefore, because of the Minister's high level of confidence and competence I would expect that he would be able to give an adequate answer to the honourable member shortly in respect of the matters he has raised.

The Hon. I. COHEN: I ask a supplementary question. In view of the Minister's detailed reply regarding the relationship between salinity, tree clearing and such problems, and the fact that the Government has taken such an interest in that issue and has identified tree clearing as part of that issue, will the Minister instruct the Department of Land and Water Conservation to prosecute this matter?

The Hon. J. J. DELLA BOSCA: I merely represent the Minister for Land and Water Conservation in this House so I am not in a position to direct Government policy from the chair. I will simply say that I will make the views of the honourable member known to the Minister. We will provide him with an answer which will include whether the Government intends any prosecution or other action in relation to the specific matter.

INDUSTRIAL RELATIONS ACT COMPLIANCE

The Hon. R. D. DYER: I direct a question without notice to the Attorney General, and Minister for Industrial Relations. Can the Attorney General give this House some examples of how his Department of Industrial Relations has improved compliance with New South Wales industrial laws?

The Hon. J. W. SHAW: Since 1995 the Department of Industrial Relations has made a significant impact on improving compliance with New South Wales industrial laws both through resolving individual industrial complaints and by undertaking productive education and compliance campaigns in various industries and locations. In the last financial year, industrial inspectors from the department recovered more than $2.1 million in underpayments owed to workers without recourse to legal action. A further $500,000 was recovered through action by the department's prosecution branch. The retrieval of such moneys is indicative of the financial hardship that hundreds of New South Wales workers have experienced through exploitative employment arrangements. Thankfully, those workers have now received their rightful entitlements as a result of action by the Department of Industrial Relations.

At the same time as those successful recovery outcomes have occurred, the department has also established a strategic plan for a number of campaigns to occur in certain industries and occupations throughout New South Wales. Those campaigns rely heavily on an initial educative component. Employers are provided with access to award and industrial information as well as free seminars. They are often undertaken by the department in co-operation with the relevant industry or employer association. I must pay tribute to employers who have co-operated in the various campaigns in a positive and co-operative spirit.

Significant campaign activity continues to occur in various regional locations, including the Hunter Valley, Southern Highlands, Central New South Wales, South Coast and the New England region. Similar

campaigns are occurring in metropolitan Sydney. The industries involved are diverse and include vineyards, restaurants, shops and hairdressers. The campaigns will continue to be undertaken by the Department of Industrial Relations in this State as they ensure that the message is taken directly to New South Wales employers and employees—that the Government is serious about adequately protecting the rights of workers and those employers who comply with the law.

UNSOLICITED MAIL

The Hon. A. G. CORBETT: My question is addressed to the Minister for Mineral Resources, representing the Minister for Fair Trading, and Minister for Sport and Recreation. What advice does the Minister have for the public of New South Wales who continue to receive unsolicited mail despite having written to or called the relevant organisation or business to ask them to desist in their practice? Will the Minister consider designing a form letter on the Department's letterhead that, on written request by consumer, can be sent by the department to offending businesses demanding that the unsolicited mail desist?

The Hon. E. M. OBEID: I thank the Hon. A. G. Corbett for this very important question. I am sure that my colleague in the other House will be able to provide him with the necessary information and support.

STATE-OWNED CORPORATIONS COMMERCIAL PERFORMANCE

The Hon. PATRICIA FORSYTHE: I address a question without notice to the Special Minister of State in his role as shareholding Minister of State-owned corporations—

The Hon. J. J. Della Bosca: The Treasurer is here today.

The Hon. M. R. Egan: I am here.

The Hon. PATRICIA FORSYTHE: I am asking the Special Minister of State about his role as a shareholding Minister. Does the Minister negotiate performance agreements with each of the State-owned enterprises, specify expected rates of return on capital and the expected level of financial distribution payments, and receive regular progress reports on the commercial performance of the State-owned enterprises?

The Hon. M. R. EGAN: As senior shareholding Minister—

The Hon. D. J. Gay: Point of order—

The Hon. M. R. EGAN: I am the Leader of the Government and I can take any question that I like.

The Hon. D. J. Gay: No, you can't.

The Hon. M. R. EGAN: Yes, I can.

The PRESIDENT: Order! I will hear the Deputy Leader of the Opposition on the point of order.

The Hon. D. J. Gay: It was a specific question to a shareholding Minister. The Special Minister of State is a shareholding Minister in this State. The question related to his responsibilities as a shareholding Minister. I know the Treasurer likes to protect him. The performance of the Special Minister of State has not been that great in the House and therefore the Treasurer takes every opportunity to try to cover up the inadequacies of the Special Minister so that he will have a chance to be the Federal President of the Australian Labor Party, but it is over the top when there is a specific question directed to the Minister and the Treasurer steps in.

The Hon. M. R. EGAN: To the point of order: The only reason that I intervene is that I do not like to shirk my responsibilities, and as Leader of the Government and the senior shareholder of these corporations, it is only appropriate that I should answer the question.

The PRESIDENT: Order! It is totally appropriate for the Leader of the Government to answer any question that is put to Ministers. That is dealt with in Standing Order 29.

The Hon. M. R. EGAN: I simply refer the Hon. Patricia Forsythe to my previous answer given to the honourable member.

The Hon. M. J. Gallacher: Why don't you come down on your own and let everyone else go away at lunchtime?

The Hon. M. R. EGAN: I would not mind if none of the members opposite turned up. I could run the whole show on my own. In fact, I would prefer to do that. They can all take an early mark and go home. They do not bring anything of value to the place anyway. It would be much better if they just delegated it all to me. Give me a proxy and I will look after it all. I will not even ask for more money. Just go home, enjoy yourselves, and let me run the place without interference.

The Hon. D. J. Gay: Point of order: The Minister is not answering the question that was asked. Madam President, I invite your attention to a ruling you gave in this House on 4 May regarding a point of order taken by the Hon. H. S. Tsang. To do so, I refer to *Hansard* and the point of order taken by the Hon. H. S. Tsang:

> I asked a question about the opportunities presented by the Olympic Games and interjections from the Opposition members have distracted the Treasurer onto subjects such as dogs, sheep and so on. Will the Treasurer return to my question?

Madam President, your ruling was:

> I uphold the point of order.

The Treasurer is not answering the question that was asked. I ask you, bearing in mind your ruling, to draw the Treasurer back to the question that was asked.

The PRESIDENT: Order! It was quite clear, from the points made by the Hon. H. S. Tsang, that he was objecting to interjections by the Opposition. As the House knows, interjections are disorderly at all times. I ruled accordingly.

The Hon. M. R. EGAN: Presiding Officers have always ruled that interjections are disorderly, but I am a very obliging chap and when someone interjects—if I can hear the interjection, and very often I cannot—I like to respond. I will continue to do that. I forget what the interjection was that I was responding to, but I was enjoying responding to it. In relation to the question asked by the Hon. Patricia Forsythe, I simply refer the honourable member to the answer that I gave to a similar question asked by the Leader of the National Party. My answer is the same on this occasion. I do not know whether the Special Minister of State gets the quarterly reports that I get.

The Hon. J. J. Della Bosca: When you send them to me.

The Hon. M. R. EGAN: I had better start sending them to him. But, certainly, the Special Minister of State gives me great assistance in negotiating—

Reverend the Hon. F. J. Nile: You are the senior shareholding Minister.

The Hon. M. R. EGAN: That is right.

The Hon. D. J. Gay: He is one of the shareholders, and he does not need Reverend the Hon. F. J. Nile to cover for him.

The Hon. M. R. EGAN: I am a senior shareholder. Certainly, the Special Minister of State gives me great assistance in negotiating statements of corporate intent in respect of all of these State-owned corporations.

The Hon. PATRICIA FORSYTHE: I ask a supplementary question. In view of the Treasurer'sreference to his earlier answer in relation to his role as shareholding Minister, will he agree that Integral Energy should have informed himof its billing problems?

The Hon. M. R. EGAN: As I have mentioned, I am aware of the problems that Integral Energy has had with its billing problems.

The Hon. J. H. Jobling: When did they tell you?

The Hon. M. R. EGAN: As I pointed out to the Deputy Leader of the Opposition, I am not sure whether I received any formal report on the issue or whether I became aware of it from discussions or correspondence, or what.

The Hon. J. H. Jobling: That is a pretty slapdash way of running things.

The Hon. M. R. EGAN: I get countless pieces of correspondence and reports on my desk every day. I would never vouch that I have or have not received documents—

The Hon. J. H. Jobling: Are you saying that Integral Energy is so badly run it did not say that to you?

The Hon. M. R. EGAN: I did not say that. The Deputy Leader of the Opposition should not be a silly man. I invite him to study the words of my answers.

YABBY CATCH LIMITS

The Hon. A. B. KELLY: I direct a question to the Minister for Mineral Resources, and Minister for Fisheries. Why has the Minister introduced new limits on recreational fishers catching yabbies?

The Hon. E. M. OBEID: I commend my colleague the Convenor of Country Labor, the Hon. A. B. Kelly, for his continued interest in the welfare of regional New South Wales. Yabbies, as we all know, are a great Australian delicacy. Generations of freshwater fishers have spent time on the banks of dams and creeks anticipating a great yabby feast at the end of the day. That is exactly why we must ensure that this valuable resource is protected for future generations to enjoy. Until now there has not been a limit on the number of yabbies caught by recreational fishers. Yabbies are also harvested commercially. Twenty-one commercial fishers are currently licensed to operate in the inland restricted fishery.

Recently, my Ministerial Advisory Council on Recreational Fishing asked me to consider introducing a bag limit for yabbies to help stop the black market. The problem is that in boom seasons unscrupulous and unlicensed fishers are known to sell yabbies on the black market for about $8 or $10 a kilogram. The advisory council recommended that a limit of 200 yabbies per person be implemented as an interim measure. Bag limits for yabbies are currently in place in South Australia and Victoria. After consultation with fishing experts, the Government has agreed to adopt this recommendation, for a two-year period, after which it will be fully reviewed. Everyone would agree that 200 yabbies per person is a pretty generous feed. This new limit is important. It helps ensure yabbies will be available for future generations; it supports the developing yabby aquaculture industry; and it helps protect the livelihood of commercial fishers relying exclusively on the yabby and carp fisheries. This new limit means this terrific resource will continue to be enjoyed by future generations in New South Wales.

FERAL CATS ERADICATION

The Hon. M. I. JONES: Apologies to the Treasurer: this question is not to him. My question is to the Minister for Juvenile Justice, representing the Minister for the Environment. Given the additional funding for threatened species recovery plans announced in the budget, will the Minister ensure that this will include a meaningful, not simply a token, program to eradicate feral cats? The New South Wales Scientific Committee has reported that feral cats have been implicated in the extinction and decline of many species of mammals and birds. The spokesman for the committee considers that each feral cat is likely to be responsible for killing up to a thousand native animals each year.

The Hon. CARMEL TEBBUTT: Clearly, the Threatened Species Conservation Act is a major contributor to the conservation of threatened species in New South Wales. I will refer the specific issues raised by the honourable member relating to feral cats to the Minister in the other place and obtain an answer as soon as possible.

SYDNEY TOURIST INFORMATION GUIDE

The Hon. JANELLE SAFFIN: I direct my question without notice to the Treasurer, and Minister for State Development. Will the Treasurer update the House on the latest Government initiatives to promote country New South Wales and, in particular, Sydney, to international tourists?

The Hon. C. J. S. Lynn: There is only one good thing about country New South Wales.

The Hon. M. R. EGAN: What?

The Hon. C. J. S. Lynn: There is only one good thing about country New South Wales.

The Hon. M. R. EGAN: There are a lot of good things about country New South Wales. The Hon. C. J. S. Lynn should be ashamed of himself for making such a stupid statement. Country New South Wales has enormous qualities. The honourable member should be absolutely ashamed of himself for denigrating country New South Wales. His colleagues are ashamed of him.

The Hon. C. J. S. Lynn: Rubbish!

The Hon. M. R. EGAN: You are a buffoon.

[*Interruption*]

The PRESIDENT: Order!

The Hon. C. J. S. Lynn: You know I am talking about Country Labror.

The Hon. M. J. Gallacher: He was talking about Country Labor.

The Hon. M. R. EGAN: He was talking about country New South Wales.

The PRESIDENT: Order!

The Hon. M. R. EGAN: He said it four times.

The PRESIDENT: Order! Will members please reduce the level of interjections.

The Hon. M. R. EGAN: I was distracted by that appalling interjection of the Hon. C. J. S. Lynn, who made what I thought to be a disgraceful and extraordinary attack on country New South Wales.

[*Interruption*]

He said "country New South Wales". He should not try to doctor *Hansard*. He said it about four times.

The PRESIDENT: Order!

The Hon. M. R. EGAN: He should be ashamed of himself. He changed his mind and changed the words only when his colleagues got to him. His colleagues sat there absolutely stunned and ashamed of him.

The PRESIDENT: Order! The Hon. C. J. S. Lynn!

The Hon. M. R. EGAN: As a result he changed the words.

The PRESIDENT: Order! I name the Hon. C. J. S. Lynn.

The Hon. M. R. EGAN: On Wednesday 25 May the Minister for Tourism, Sandra Nori, released a new information guide to cater for the thousands of tourists who visit Sydney this year and after the Olympics. The booklet, which is entitled "Sydney The Official Guide", will help visitors find their way around Sydney from the time they arrive at the airport to the time they hop back on the plane to go home. Using the guide, visitors will have no trouble finding Sydney's main attractions in precincts such as Darling Harbour and The Rocks. The guide will also make it easier for visitors to find the lesser-known gems that make exploring Sydney so much fun, like our beaches, markets, restaurants, theatres, parks and galleries.

The Hon. Jennifer Gardiner: When people arrive at Sydney airport there are no signs informing them how to get on the train. Sandra Nori should look at that.

The Hon. M. R. EGAN: That is a good suggestion. I will take up that matter with Sydney airport. The guide is full of maps.

[*Interruption*]

Opposition members should not be complaining about a railway that they started to build. I have only one complaint about it: it was a great project but it was a lousy deal because the taxpayers of New South Wales

ended up paying for about 90 per cent of it. We will not be getting any revenue from it for a long time to come. It was a very bad deal. However, I congratulate those who were responsible for the building of the project. The guide is full of maps, directories, touring suggestions, services, special deals and hints for getting the most out of a visit to Sydney. As we prepare for a huge influx of Olympic visitors this new guide is a perfect example of what co-operation between all levels of government and the tourism industry can achieve.

Strong advertising support from the tourism industry has covered the cost of the one million copies and the Government's partners in producing the guide will help with the distribution. Tourism New South Wales, the City of Sydney, the Sydney Harbour Foreshore Authority, the Darling Harbour Authority, the Sydney Convention and Visitors Bureau and the Sydney Airports Corporation operate some of the most influential distribution outlets in Sydney. Their involvement will ensure that the guide will reach the hands of most, if not all, visitors to Sydney. The guide will also be available on the NineMSN web site, and Japanese and Chinese editions will follow the release of the English edition. I congratulate all those involved in the production of the guide. I am confident that it will make a visit to Sydney that little bit more enjoyable.

MEMBERS OF PARLIAMENT LOBBY GROUP MATERIAL DISTRIBUTION

The Hon. C. J. S. LYNN: My question without notice is directed to the Treasurer, and Vice-President of the Executive Council. What guidelines are in place regarding the use of Parliament House offices and staff in the preparation and distribution of material for lobby groups not connected with the parliamentary process or with a recognised political party? What action would the Treasurer, as Leader of the House, take if it were to be shown that members of Parliament were using their offices to distribute material for a lobby group?

The Hon. M. R. EGAN: I am surprised that the Hon. C. J. S. Lynn does not know that, as much as I would like to, I do not run the Parliament.

[*Interruption*]

I would like to run the House.

[*Interruption*]

There is a Presiding Officer.

[*Interruption*]

Let me take up the point made by the Hon. D. J. Gay. I am a senior shareholder.

The Hon. D. J. Gay: No, you are not.

The Hon. M. R. EGAN: Let me put it this way. There are two shareholders but, if there was a disagreement, my views would prevail. That makes me the senior shareholder.

[*Interruption*]

I have told honourable members before that I found a 40-year-old photograph of me and my dog. I will bring in that handsome photograph of my dog.

The Hon. D. J. Gay: Wait until the Hon. Dr B. P. V. Pezzutti is back.

The Hon. M. R. EGAN: I will wait until he is back. The question asked of me by the Hon. C. J. S. Lynn is one which should be asked of the Presiding Officers. As I said, I do not run the Parliament.

The Hon. C. J. S. LYNN: I ask a supplementary question. I ask the Treasurer whether he is aware that the lobby group Australians for Native Title and Reconciliation sent a letter from the fax machine at the Council of Social Service of New South Wales [NCOSS] to at least one Labor member of this House stating:

> I want to confirm that we can send the leaflet in envelopes supplied by us, addressed and sealed, to your office to stamp and mail.

The Hon. M. R. EGAN: No, I am not aware of any such thing.

CASUARINA BEACH ESTATE DEVELOPMENT

The Hon. R. S. L. JONES: I ask the Special Minister of State, representing the Minister for Urban Affairs and Planning, whether the National Parks and Wildlife Service has made recommendations relating to the Casuarina Beach estate development. Has the rogue Tweed Shire Council ignored these recommendations and failed to require the developer to adhere to the conditions set out by the National Parks and Wildlife Service? Will the Minister use his powers under the Environmental Planning and Assessment Act to call in and determine this development before it is too late?

The Hon. J. J. DELLA BOSCA: I am not in a position to answer the honourable member's question, which obviously relates to a particular controversy within the Minister's portfolio. I will refer the honourable member's question to the Minister. I am sure he will supply a prompt answer for the honourable member.

YOUTH WEEK 2000

The Hon. P. T. PRIMROSE: My question is directed to the Minister for Juvenile Justice, Minister Assisting the Premier on Youth, and Minister Assisting the Minister for the Environment. Will the Minister provide details of the evaluation of Youth Week 2000?

The Hon. CARMEL TEBBUTT: Youth Week, a successful week, was held in the first week of April. I have previously reported to the House a number of initiatives that were held during that week. An initial evaluation report has now been prepared. I am pleased to provide the House with an overview of the findings. The report demonstrates that Youth Week 2000—it was the first time Youth Week went national—is meeting the aims of providing young people with an opportunity to express their views and act on issues that impact on their lives. The objectives of Youth Week are: to raise issues, ideas and concerns of young people; to develop strategies to address issues important to young people; to increase the community's awareness of young people and the issues which are important to them; and to promote young people's contribution to the community.

This year's Youth Week theme was Count Me In. Preliminary reports coming in from local councils show that some Youth Week committees are evolving into permanent structures that allow councils to consult young people about issues in their local areas throughout the year. More young people are organising events and more young people are participating in those events. Councils are using Youth Week to survey young people about their need for services and facilities and this feeds into their planning throughout the year.

Young people in New South Wales have participated enthusiastically, and the numbers speak for themselves. This year 132 councils participated, there were 663 local events and it is estimated that more than 50,000 young people across New South Wales participated in these events. I was fortunate to attend several events during the week, including the launch in Gunnedah that I have already reported to the House about, the first time that Youth Week was launched outside Sydney.

The Hon. M. R. Egan: It's a good town, isn't it?

The Hon. CARMEL TEBBUTT: It is a very good town. It now has a skate park, which is a great addition to Gunnedah. The Silent Cells Film Festival, held at Broadway Shopping Centre, received some money—

The Hon. M. R. Egan: From whom?

The Hon. CARMEL TEBBUTT: From the Government, the council and community fundraisers. It was a good partnership. Other events held included the Marrickville Council's school youth forum, and youth rock. In addition to localised events, Youth Week also hosts statewide focus events. The main statewide focus event this year was youth rock, a statewide band competition. This aims to provide young musicians with the forum to perform live music with professional lighting and audio. It provides an opportunity for bands to receive feedback from music industry professionals, who are the judges, and provides live entertainment so young people can develop technical and production skills.

This year more than 60 bands entered the youth rock competition, with the top 32 bands travelling to the Seymour Centre to perform during Youth Week. I attended the finals on Friday night, where I enjoyed the performances of the top eight bands of the week. The bands all demonstrated professionalism and straddled all the differing types of contemporary music: ska, punk, hip-hop, Christian rock and heavy metal. First prize went

to Tenstone, a band from Cherrybrook Technology High School; second prize went to Obsessive Denial, a band from Robert Townson High School; and third prize went to Interwoven, a band from St Johns Park High School. Honourable members will agree a good representation from across the geographical areas of Sydney was reflected in the awards. The encouragement award went to a band called Skooter from Sylvania High School.

The other main focus event was the freeze frame photographic competition. I look forward to providing the House with details of this competition when the results have been finalised. This was the first year that Youth Week has been a national event. Quite clearly, holding it nationally is quite successful. The national event has been modelled on the New South Wales Youth Week that has been held for many years. I look forward to it being further expanded in 2001.

NURSE PRACTITIONERS LEGISLATION IMPLEMENTATION

The Hon. JENNIFER GARDINER: My question without notice is to the Treasurer, representing the Minister for Health. Is the Government aware of concern in some communities about the way in which the Nurses Amendment (Nurse Practitioners) Act is being implemented, one such community being Cobar? What is the Government doing to allay fears in such communities that the way the Act is being implemented by the Carr Government may present a threat to a town's capacity to attract and retain sufficient doctors?

The Hon. M. R. EGAN: I am not aware of any problem with the implementation of the Nurses Amendment (Nurse Practitioners) Act, nor am I aware of any particular problem that might be experienced in Cobar. If there are such problems, I am quite happy to refer the matter to my colleague the Minister for Health, who, I am sure, will give the matter his personal attention.

LEGIONELLA DISEASE CONTROL

The Hon. ELAINE NILE: I direct my question without notice to the Treasurer, representing the Minister for Health. Is it a fact that Mr Hans Rex, who was interviewed on television last night, has discovered an effective control over the legionella disease and that BHP is already using this method in its cooling towers? What action will the Government take to investigate Mr Rex's discovery and to regulate to ensure that it is used statewide in shopping malls, hospitals, Parliament, et cetera? In recent cases in Wollongong and Victoria a number of people have been infected, and some have since died, as a result of this disease.

The Hon. M. R. EGAN: I am not aware of Mr Rex or the control over legionnaires disease that he might have developed. I am certainly interested in it.

The Hon. Elaine Nile: BHP already is already using it.

The Hon. M. R. EGAN: I will certainly refer the matter to the Minister for Health and obtain a response from him as soon as possible.

OMBUDSMAN APPOINTMENT SELECTION PANEL

The Hon. J. F. RYAN: My question is to the Treasurer, representing the Premier. Is it a fact that Kaye Loder, the former chairman of the Casino Control Authority, was a member of the selection panel for the appointment of the New South Wales Ombudsman? Given the highly publicised criticism of Kaye Loder by the Premier, will he now inform the House whether he accepted the recommendations of the selection panel before or after requesting her resignation from the Casino Control Authority? If it was after the call for her to resign, will the Premier explain why he accepted her views on this matter, yet saw fit to demand her resignation over other matters?

The Hon. M. R. EGAN: I think that is a pretty silly question. If the honourable member wants to pursue it, he can put the question on notice.

BROKEN HILL MINERALS EXPLORATION

The Hon. A. B. MANSON: My question is to the Minister for Mineral Resources, and Minister for Fisheries. Will the Minister advise the House of the latest support the Carr Government is providing to the Broken Hill community?

The Hon. E. M. OBEID: It is my pleasure to reiterate how important country New South Wales is to this Government. While the Opposition, through its spokesman the Hon. C. J. S. Lynn, says quite clearly there is only one good thing about country New South Wales, and having repeated it four times in this House, I reaffirm that everything is good about country New South Wales. The Carr Labor Government and members on this side of politics believe everything is good about country New South Wales, and we are totally indebted to the people of country New South Wales for having been and continuing to be the backbone of our agricultural economy and our mineral resources. I share with this House our commitment to country New South Wales, and support Country Labor, with all its dedicated members, who are serving country New South Wales.

This budget has specifically allocated tremendous amounts of money for infrastructure throughout country New South Wales. The Hon. C. J. S. Lynn repeated his comment four times and it was ignored by members of the National Party. None of them got up to correct the Hon. C. J. S. Lynn or to defend country New South Wales. This is an indication of their political understanding of country New South Wales. Members on this side of the House believe country New South Wales deserves better representation, and that is what Country Labor will give them. The Carr Government is committed to supporting the important region of Broken Hill. We have provided vital funding for essential exploration and community programs. We are committed to encouraging mineral exploration in the area and will maximise all opportunities to find new resources.

In the long term, large mineral sands deposits that exist in the region have tremendous potential for development. We are continuing to work with the Commonwealth and South Australian governments to support Broken Hill. Next week, the fifth Broken Hill Exploration Initiative Conference will be held in the town, from 29 May to 31 May. The focus of next week's conference will be on the results of recent geological investigations. This includes the latest geophysical surveys in the Broken Hill area; information on geological mapping in the Koonenberry area to the east and north-east of Broken Hill; latest reports on the region's mineral potential; and the Carr Government's ongoing plans for mineral development in the region.

Eleven companies are currently exploring the region and will be presenting their results at the conference. These companies are exploring the potential for zinc, lead, silver, copper, industrial minerals and gold in Broken Hill. Two companies—Platsearch and Malachite Resources—are searching for copper and gold in the Koonenbery locations. The Carr Government is committed to working with the Commonwealth and South Australian governments to find a successful future for the major regional area.

Since the Broken Hill exploration initiative began, more than $15 million has been provided jointly under this tri-government agreement. New South Wales alone has provided $5 million to support the Broken Hill exploration initiative. It is expected that this conference will attract much interest, and more than 130 people are expected to attend this three-day gathering. I look forward to updating the House on the outcomes of this major minerals exploration program, which will benefit Broken Hill and the New South Wales community.

DUBBO YOUTH CRIME

Reverend the Hon. F. J. NILE: I ask the Minister for Juvenile Justice, Minister Assisting the Premier on Youth, and Minister Assisting the Minister for the Environment a question without notice. Is it a fact that the citizens of Dubbo are being terrorised by teenage arsonists who are running wild on the streets of this country community, with the local police calling it "almost war like"? Is it a fact that this youth gang is competing to see who can light the most fires, when a house was destroyed on Tuesday night and seven homes were destroyed, two police cars were damaged and six police officers were injured in the past week? What action is the Minister's department taking to assist the police and education authorities to identify problem teens and to develop strategies to address their behavioural problems, especially as the same gang has targeted homes in the Gordon Estate, where many Aboriginal families live?

The Hon. CARMEL TEBBUTT: I am aware of the issues raised by Reverend the Hon. F. J. Nile in relation to Dubbo. I understand that an honourable member—I am not sure whether it was Reverend the Hon. F. J. Nile or another honourable member—directed a question to the Minister representing the Minister for Police on the same issue this week. I further understand that the matter is in the hands of the police, who are conducting investigations. If the young people involved have a prior history with juvenile justice, no doubt the police will follow that up with the Department of Juvenile Justice, and the department will provide every assistance to the police. Otherwise, these young people will come to the attention of the Department of Juvenile Justice after the court processes. It is inappropriate for me to comment on the matter at this stage, other than to say that the police are undertaking investigations. If the police have asked the Department of Juvenile Justice for assistance, the department will provide every assistance.

COAL EXPLORATION LICENCES

The Hon. D. F. MOPPETT: My question without notice is addressed to the Minister for Mineral Resources. In what circumstances and under what conditions are coalmining exploration licences granted to mining companies? Are these licences subject to a time limit, which means that access to land by companies expires after a set period? Is the Minister aware that property owners whose land falls within the area of an exploration licence are subject to continuing uncertainty while the exploration licence is current? What is the Minister prepared to do to compensate property owners for the damage that may be inflicted on their land during exploration work on the property pursuant to an exploration licence?

The Hon. E. M. OBEID: I am sure the Hon. D. F. Moppett has meaningful intentions in asking that question. I am aware that an exploration licence is granted under certain conditions. I am not aware of the specific time limits. Compensation agreements are usually negotiated with individual property owners. It is purely an exploration process that could take some time. I have not received any reports recently about owners who feel—

The Hon. D. J. Gay: If there was a specific problem, would you look at it?

The Hon. E. M. OBEID: No doubt about it. We expect mining companies with an exploration licence to treat property owners with fairness and equity and to respect the conditions of the agreement for that exploration. If I am made aware of a specific case, I will certainly look into it. Exploration should be done in an environment of understanding and agreement with the property owner, and it should benefit the property owner if a resource can be extracted from the land. If the Hon. D. F. Moppett has a particular issue that I am not aware of, I am more than happy to look into it and to ensure that the conditions of the exploration licence are adhered to. We do not want land owners to be inconvenienced to the extent that their property is damaged.

The Hon. D. F. Moppett: Would you undertake to look in your files and see whether you have correspondence from January that refers to this particular issue?

The Hon. E. M. OBEID: I do not think that is appropriate. If the honourable member has information he should give it to me or my department.

The Hon. Jennifer Gardiner: It's already there.

The Hon. D. F. Moppett: You've already got it.

The Hon. E. M. OBEID: I am not aware of it. However, if the honourable member wants to help the process and the people he is concerned about, he should forward any information he has to my department. I can assure him that it will be looked into immediately.

NUCLEAR WASTE

Ms LEE RHIANNON: My question without notice is addressed to the Special Minister of State, representing the Premier. Given that section 8 of the Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986 exempts both Commonwealth facilities and facilities for the storage of medical and research wastes from the prohibition on the operation and construction of nuclear facilities in New South Wales, does the Minister now admit that he misled the House yesterday when he stated that there is a legislative ban on nuclear facilities in New South Wales? Will the Government give a commitment to amend section 8 and give the House an undertaking that there will be no nuclear facilities in New South Wales, including a nuclear waste dump at Olary and a new reactor at Lucas Heights?

The Hon. J. J. DELLA BOSCA: I could only give such a guarantee, if I were in a position to do so, to the extent that State laws allow the Parliament to do that.

The Hon. D. J. Gay: What about misleading the House yesterday?

The Hon. J. J. DELLA BOSCA: I did not mislead the House; I said that nuclear facilities were prohibited under an Act of the New South Wales Parliament. And nuclear facilities are prohibited, so the question of misleading the House does not become an issue. In the consensus that prevails between the Government and the Greens on such matters—

[*Interruption*.]

I do not understand why Ms Lee Rhiannon is being so provocative in the framing of her question. I undertake to discuss the matter with my Cabinet colleagues. We will consider whether further legislation on these matters should be considered by the Government. As to the question of whether there are ongoing negotiations, I have not yet been given advice on that. I suppose it will be part of a comprehensive package of responses to be announced in the future.

CRIMENET WEB SITE CONTENT

The Hon. D. T. HARWIN: My question is directed to the Attorney General. Is the Attorney aware of the situation in Victoria this week, where a murder trial was aborted because information about the defendant's previous trial was published on the Internet site CrimeNet? Is the Attorney concerned that trials in New South Wales could also be jeopardised by information carried by that web site? Does he think that Internet sites such as CrimeNet should be subject to stricter guidelines about what they can and cannot carry as part of their content?

The Hon. J. W. SHAW: The honourable member has asked an important question which has implications for the criminal justice system and in particular the role of juries in that system. As the honourable member rightly said, in Victoria a recent murder trial was aborted due to prejudice caused by the CrimeNet Internet site. In one sense that does not come as a great surprise. Judicial officers have discretion to end a trial when they believe there is an unfair prejudice to the accused. That is a fundamental principle of our criminal justice system and an essential component of natural justice.

The development of an electronic register of alleged offenders—compiled substantially, as I understand it, from newspaper reports—is of concern to me. This is obviously a national problem and it needs to be dealt with at that level. The issue will be reviewed at the next meeting of State and Federal Attorneys General in July this year. I am glad that my colleague the Hon. Daryl Williams, QC, has raised the matter, because it requires consensual discussion. I assure the honourable member that I will give the matter close consideration. There is no easy or obvious answer to the problem, but if criminal trials are to be aborted in that way it is something that we must constructively apply our minds to.

The Hon. M. R. EGAN: If honourable members have further questions I suggest they put them on notice.

M5 EAST AIR QUALITY INVESTIGATIONS

The Hon. J. J. DELLA BOSCA: On 2 May the Hon. Dr A. Chesterfield-Evans asked me a question without notice regarding M5 East air quality investigations. I now provide the following response:

> The air dispersion modelling reports for both a 25 metre and a 35 metre high ventilation stack, together with the wind tunnel test results for both stack heights, were forwarded to the Department of Urban Affairs and Planning in April 2000. Before doing so, both reports were made available to representatives of the Central (Tunnel) Community Liaison Group and the Air Quality Community Consultative Committee for comment.
>
> In accordance with usual environmental processes, the Roads and Traffic Authority (RTA) provided extensive written responses to the community's comments. Both the community's comments and the responses by the RTA were forwarded to the Department of Urban Affairs and Planning. A copy of the responses has also been made available to the community representatives.

NUCLEAR WASTE

The Hon. J. J. DELLA BOSCA: Further to the question asked earlier by Ms Lee Rhiannon, I provide the following information. Clause 21 of the Radiation Control Regulation 1993 prohibits the disposal of radioactive substances and radiation apparatuses. The Protection of the Environment Operations Act 1997 also classifies as hazardous any waste that contains a substance which fulfils the definition of "radioactive substance" under the Radiation Control Act 1990, otherwise known as the Radiation Act.

The principal legislation for the control of radioactive substances and radiation apparatuses in New South Wales is the Radiation Act. The Radiation Act defines a "radioactive substance" as any substance which emits ionising radiation spontaneously with a specific activity greater than the prescribed amount and which consists of or contains more than the prescribed activity of any radioactive element, whether natural or artificial.

MURRAY-DARLING BASIN NATIVE FISH STOCKS

The Hon. E. M. OBEID: I have a response to a question asked by the Hon. Jennifer Gardiner on 24 May.

The Hon. D. J. Gay: I think the question has already been answered.

The Hon. E. M. OBEID: No, it has not. The question was about Commonwealth funding for research projects with regard to New South Wales Fisheries weirs. I now provide the following response:

> On 7 January this year the Department of Agriculture, Fisheries and Forestry Australia announced that my department, New South Wales Fisheries, had been awarded funding for two projects under the Murray Darling 2001 Fish Rehab Program.$300,000 was allocated for a two-year project to undertake "development and testing of national guidelines for "fish and flow friendly" causeways, culverts and wetland inlet structures".$33,625 was awarded to assist my department investigate the cold water pollution issues.In anticipation of receiving the funds, both projects have been progressed using the contributions by the New South Wales Government.
>
> My department is contributing $100,000 for the development of fish-friendly guidelines and $28,000 to investigate the extent of cold water pollution throughout the State.Mindful of the potential impacts of road crossings on fish and fish habitat, several local councils and the Roads portfolio are also contributing funds.There has also been in-kind contributions, each worth $10,000 given by the Murray-Darling Basin Commission, Goulburn Murray Water and the Land and Water Conservation portfolio to assist my department investigate cold water pollution.Testing the fish-friendly guideline will involve investigation of the design and management of causeway, culvert and wetland inlet structures to ensure minimal impact on fish and fish habitat.
>
> This grant will allow us to identify the extent of the problem.The cold water pollution study will allow the extent of this type of pollution to be identified.The recruitment of appropriately qualified staff for both projects is under way and preliminary planning has been undertaken.This work my department is doing will assist in maintaining the aquatic biodiversity of the Murray-Darling Basin.The Agriculture, Fisheries and Forestry Australia, by awarding this funding to the New South Wales Government, has recognised the leadership role we are playing in reducing threats.

Questions without notice concluded.

[*The President left the chair at 1.02 p.m. The House resumed at 2.30 p.m.*]

CRIMES AMENDMENT (CHILD PROTECTION—EXCESSIVE PUNISHMENT) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. J. F. RYAN [2.32 p.m.]: Earlier in the debate, I was explaining to the House the real difficulty in interpreting the term "reasonableness" because so many different values can be brought to bear in its interpreting. I cited French criminal law which interpreted "reasonableness" as punishment that results in "the sickness or total incapacity to do personal work of not more than eight days". That might indicate that even in developed countries a view prevails that is even more extreme than would be regarded in this country as reasonable. Honourable members might be interested in the standard that applies in Zimbabwe. In September 1989 the Supreme Court of Zimbabwe ruled that judicial whipping should no longer be an acceptable sentence for juveniles or adults. However, it appears that the Zimbabwe Government has overturned that ruling and is in the process of bringing back judicial whipping for juveniles.

Reverend the Hon. F. J. Nile: What about Singapore?

The Hon. J. F. RYAN: There are other countries that have banned the practice altogether and Scandinavia, Denmark, Norway, Sweden, Finland, Cyprus and Austria are the most notable examples. As the Hon. J. P. Hannaford pointed out, the text of the bill is actually quite modest because it really does not infringe the common law but for the single exception of being more specific than cases in common law would suggest in regard to the use of an object such as a stick. Other than that, there really is not anything in this bill with which one might disagree. The position being taken by the Opposition is not so much that members of the Opposition do not agree with the standard set in the bill: rather, it is more to do with exercising some caution about setting a standard legislatively, given that the level of support for this bill might be unknown.

As pointed out by the Hon. J. P. Hannaford, some very impressive commentators in the field of child protection support the bill. The Opposition acknowledges that when people such as Professor Kim Oates, the chief executive of the New Children's Hospital at Westmead, and Dr John Yu, the former chief executive of that

hospital, suggest that the Parliament should be considering legislating on this matter, they are not comments that should not be taken seriously. As I said, the Opposition's position is based on concerns other than the general purport of the bill. For example, it could be argued that this legislation, if warranted, should fall under child protection laws rather than be inserted in the criminal code. Another concern is that the proposed bill does not specify what, if any, protective measures might ensure that this legislation is not abused by, for example, the overreporting of corporal punishment that at present might be considered reasonable. Concern also has been raised about whether or not this legislation might be seen as overregulation which intrudes into home life and whether that is actually justified.

Having put those views on behalf of the Opposition, I will indulge myself just a little by espousing a personal view. I have no doubt that one day New South Wales will have a law which reflects the provisions of this bill. Frankly, if it were a matter for my conscience alone, I would be supporting this bill. I believe this legislation is helpful in providing people with guidance on what might be a proper standard to apply in the difficult choices that one needs to make about chastising and disciplining children. It is accurate to say that such matters are covered by the common law, but there are two significant drawbacks in applying the common law in this context. First, someone would have to be charged and dragged through the courts to find out what the standard is. I believe that passing legislation similar to the bill before the House—if not legislation in this bill's exact terms—would be a much better and more positive way to set community standards with regard to child chastisement and child protection than by prosecution.

I state unequivocally that it is time for a clear statement informing people that belting up a child is a criminal offence. If the same conduct occurred in the street or in a pub, or if one was to do that to one's partner, it would be considered a crime. It is possible to injure children to the point that it is a crime, and there is no way that I would support that type of treatment of children. I would certainly want to have some strong statement of the law that makes the position clear. I do not regard the provisions of this bill as an extreme statement of children's rights. Children have always asserted their rights and that is not new.

Reverend the Hon. F. J. Nile: But this bill provides legal power.

The Hon. J. F. RYAN: I recall asserting my rights when I was young and I am sure that my mother—though she may wish to deny it—would have been asserting her rights in her childhood. Even Reverend the Hon. F. J. Nile must acknowledge that this bill does not actually give children new rights. The issue of children's rights has to be balanced against the right of children not to be assaulted. That is an important right that ought to be acknowledged and entrenched.

Reverend the Hon. F. J. Nile: That is covered under child protection laws.

The Hon. J. F. RYAN: It is not covered under child protection laws. I look forward to Reverend the Hon. F. J. Nile explaining in the time allocated for his speech which parts of statutory law cover this issue. Most of the arguments presented against this bill are very similar to the arguments that were presented when consideration was given to outlawing domestic violence. It was said in relation to domestic violence that it was inappropriate for the law to intervene in the home, but now that intervention is accepted as commonplace. Honourable members might recall that as recently as a decade ago surveys were conducted by various criminological agencies which indicated that one in five men considered it to be all right to belt his partner or his wife. That is not the standard that applies currently.

Reverend the Hon. F. J. Nile: It was not the standard then for decent people. Do not make out that that was the standard.

The Hon. J. F. RYAN: If any honourable member has interpreted my speech as a suggestion that I am against chastising children or that I do not acknowledge that there is a complication with regard to distinguishing domestic violence from child protection, I accept that. That is one of the unfortunate duties—

Reverend the Hon. F. J. Nile: Any decent husband would say that he would never accept that it is all right to bash his wife.

The Hon. J. F. RYAN: Believe it or not, many decent husbands—one in five Australians—did once state that it was acceptable.

Reverend the Hon. F. J. Nile: But they may never have done that.

The Hon. J. F. RYAN: I would not want to delve into that.

Reverend the Hon. F. J. Nile: The honourable member ought to check that.

The Hon. J. F. RYAN: For the benefit of Reverend the Hon. F. J. Nile, I point out that I mentioned the survey only to make the point that standards change, and I do not think that Reverend the Hon. F. J. Nile will disagree with that. I also wish to confront what I believe to be a dopey axiom which I would not be surprised to hear suggested during this debate, namely, "I was hit as a child, and it never hurt me." I am sure that that will be said before this debate is concluded. I make the point that "never hurt" is not a benchmark of excellence to which I would adhere in the very important task of bringing up my children.

Reverend the Hon. F. J. Nile: Did it do you any good?

The Hon. J. F. RYAN: I accept—

Reverend the Hon. F. J. Nile: Did it improve you?

The Hon. J. F. RYAN: I accept that it is better not to use violence.

Reverend the Hon. F. J. Nile: Did it make a difference?

The Hon. J. F. RYAN: Mr Deputy-President, I ask you to call Reverend the Hon. F. J. Nile to order. I have limited time for my speech and I am having difficulty concentrating because of his interjections. I believe that it is better not to use violence when disciplining children. I believe it is better if people are able to discipline their children without hitting them at all. I must say that on a few occasions I have scolded my children with corporal punishment. I must also say that if I were to curl two of my fingers while holding up my hand, I would still have enough fingers to illustrate the number of times that that has occurred, and I would probably have to think twice about a couple of those occasions.

The far preferable standard is to develop a good relationship with a child. I would suggest that an effort to withdraw affection from a child has a far more salient effect on a child than has corporal punishment. I discovered that my children actually resent corporal punishment, and then I have another problem to deal with that I would not have had otherwise. I am not surprised at how unnecessary corporal punishment is when one has a decent relationship with one's children. That is the standard of excellence I would use. To people who say that it did not do them any harm I simply say that there is a better way, and as a person who is committed to the better way, I would rather have a standard of excellence.

It is better to have a benchmark for adults. The nub of the benchmark in this bill is simply that disciplining a child should last no longer than a couple of moments. My view is that it is a perfectly good standard not to use corporal punishment. That is not the view of the Opposition. I support the good commonsense address made by the Hon. J. P. Hannaford in this matter. A lot of parents would like to have a standard and to know exactly what is an acceptable benchmark. A number of parents simply hit their kids because they are lazy and do not want to think about the issue of discipline.

Reverend the Hon. F. J. Nile: The lazy ones don't hit them at all!

The Hon. J. F. RYAN: The truth is that many children run the streets because their parents hit them, and I say to Reverend the Hon. F. J. Nile that I was one such child. I ran away from my parents because they inappropriately hit me, but that is another story which I might tell on another occasion. The argument cuts both ways. I have a personal commitment to such a bill being brought forward at a future time. I accept that the Opposition has gone through the process of making its decision, and I respect it. I understand that there are perfectly good reasons to be cautious about entering into the field of statutory law. The Opposition respects what statutory law means and there is a good reason for being cautious but, nevertheless, if it were a matter for my conscience I would support this bill. However, on this occasion the Opposition will not support this measure at this time in no small part because, I understand, the Government does not support it. To some extent such a bill has to have a large amount of consensus and, will not be passed without support from all sides of the House. I would be surprised if anybody understood this bill. If the appropriate level of discussion in the community were allowed, I am sure there would be a large measure of support for it from the community.

The Hon. I. COHEN [2.43 p.m.]: As a member of the Greens I am pleased to support the Crimes Amendment (Child Protection—Excessive Punishment) Bill. The Hon. A. G. Corbett is clearly representing his

constituency. One of the primary objectives, if not the primary objective, of the Hon. A. G. Corbett in this House is to promote this bill for his constituency. I commend him for being strident in his representation in this Parliament for the rights of children. I also commend him for this bill. I have no doubt that in the not too distant future a government will take this bill, claim it as its own and make it law.

It is a shame that both the Government and the Opposition do not support it. I thank the Hon. J. F. Ryan for his views on this matter. I certainly applaud the Hon. J. P. Hannaford for his incisive contribution; it shows that there are members of the Opposition who could have led the way and supported this bill and made social reform in this State. But the opportunity will be lost. Sadly, neither major party at this point in time will support the bill.

As I understand it the impact of the bill would be mild. Many people are calling for it to be far stronger. I shall refer to many instances, globally, of governments being far more strident with regard to child protection and bringing values into line with international covenants to protect children. The adage "spare the rod and spoil the child" does not wash with the Greens at all. I am quite disturbed by some of the comments that have been made in this debate by some members by way of interjection. I am sure those members will take the opportunity to contribute to the debate. I am disturbed that some still support correction by force, which I am sure many honourable members experienced during their childhood. I certainly did. I wonder about the effect on a person of a 10 foot giant standing over him, physically beating him.

Reverend the Hon. F. J. Nile: Physically beating is not smacking!

The Hon. I. COHEN: I disagree totally with the honourable member.

Reverend the Hon. F. J. Nile: Physically beating a child has nothing to do with this bill. That is emotive language. It is not part of this bill.

The Hon. I. COHEN: Well, what about physically using an open hand against a being who is far smaller, who is vulnerable and who is under that person's control. Think of the shock caused by such an event. Many members would have had experience of this. I remember standing outside a master's room having been sent to see the master for a minor misdemeanour. I recall quaking with fear thinking about being caned. It is the shock, fear and threat of violence more than the physical hurt. Time and again in many institutions we see that violence breeds a culture of violence. We hear of people who were abused when they were young abusing, in turn when they grow up, people younger and smaller then they are. This moderate legislation would be a substantial step in the right direction.

Often people get carried away; the smacking or violation becomes an angry reaction. This latitude allowed to parents matter was referred to by the Hon. A. G. Corbett. It is the fault of parents who do not have the patience, the wherewithal, the training or the acknowledgment of society that there are other ways to deal with such situations. As the Hon. J. F. Ryan said, a loving relationship with children and admonishing verbally rather than physically is far more effective and will not create resentment. It is resentment that is the cause of most of today's violence in our society. Belting a child is a criminal offence in common law; the offence must be proved in our courts. But there is no clear structure to the situation. It has been said that this issue is similar to the issue of domestic violence in that parents can undergo a culture change and earn respect and, therefore, not resort to using corporal punishment.

I recall some years ago listening to the Indian teacher-philosopher Vimila Thakka, who was a contemporary of Gandhi, speak about her upbringing. In their social milieu Indians have a strong tradition of non-violent action when dealing with family situations. She said that her father used to sometimes sit at the dinner table and not eat when the children had been very naughty. On those occasions her father would say, "You are my children, and I am responsible for you, and I do not feel I deserve to eat at dinner tonight because you have been so naughty." Whether one agrees with it or not, that is the sort of lateral, non-violent approach that other cultures could take with respect to the chastisement of a child. That man obviously had earned the great respect of his children. This woman grew to be a noted activist; she worked with Mahatma Gandhi and joined him on the salt marches. Even now she is active as a philosopher, travelling and spreading the message of peace. Something must have worked.

The fact is that there are many ways to deal with indiscipline other than resort to unfair and unbalanced relationships between parents and children. I maintain that it is that very unbalanced relationship that sows the seed of an unbalanced and violent society. The violence in our society comes from the violence that is experienced by people at a very early age. It is important that that be recognised.

The bill will amend the Crimes Act to modify the defence of lawful correction, so that it is not available when certain physical force is used against a child. I repeat this because I regard this proposal as very moderate. The defence will not be available when the physical force used to punish the child is: applied by the use of a stick or belt or other object, other than an open hand or other than in a manner that could reasonably be considered trivial or negligible in all the circumstances; or applied to any part of the child's head or neck, other than in a manner that could reasonably be considered trivial or negligible in all the circumstances; or applied to any part of the body in such a way as to cause, or threatened to cause, harm to the child which lasts for more than a short period. The bill does not affect the current legal position with regards to smacking, provided that it is consistent with the bill and remains reasonable in all the circumstances. The measures contained in the bill have the support of a vast number of people and community organisations. Also, the bill recommends a 12-month period between assent and the commencement of the Act to afford an opportunity for education.

Exemption has been made for Aboriginal and Torres Strait Islander people in the definition of "person acting for a parent", in deference to the concept of broader family. I know that only a few honourable members came when I hosted a film called C*ry from the Heart*, which can be viewed this evening on SBS Television. It is about the terrible trauma in the lives of two generations of Aboriginal children who were separated from their parents. I acknowledge that Reverend the Hon. F. J. Nile and Hon. R. S. L. Jones were present last night to see that film, which deals in particular with the brutalisation of one young man and his consequent anger and the problems that developed from that. That is all part of brutalisation in our society. I suggest the bill is a substantial step towards lessening the tendency that society has to brutalise people, particularly those of an indigenous culture. I hope to talk about that more during the adjournment debate.

Reverend the Hon. F. J. Nile: Should the indigenous culture use its own tribal law? Is that not Green policy?

The Hon. I. COHEN: I have already acknowledged the indigenous culture mores. An overwhelming number of community organisations support the bill. I am at a loss to understand why the Government and the Opposition do not take note of that fact. Professor Kim Oates, Chief Executive of the New Children's Hospital, said:

> The Bill contains just the right balance by retaining the existing requirements that the use of physical force must be reasonable in the circumstances, but specifically excluding the variety of types of application of force which could seriously injure young children. I believe that the Bill will be a real advance in giving parents appropriate guidance and in protecting young children.

Margaret Hole, recent past president of the Law Society of New South Wales, wrote to the Hon. A. G. Corbett and said:

> Having considered the further amendments you propose to the Crimes Act, I believe that these amendments are a positive step in the care and protection of children in this State and I offer you my support for the Bill.

Gillian Calvert, Commissioner for Children and Young People, wrote:

> One of the Commission's principal functions is to make recommendations to governments and other agencies on legislation and practices affecting children.
>
> I support this Bill as an important legislative initiative to promote the safety, welfare and well being of children and young people in New South Wales. The Bill, if enacted, would help to realise the lessons that can be learned from Australian and international research about effective parenting techniques and about strengthening family life and relationships ...
>
> The Commission will be pleased to assist with community education about this legislation, if passed by Parliament.

It seems inevitable that the bill will not be passed. Former Community Services Commissioner, Mr Robert Fitzgerald, said:

> It is my preferred position that the use of inappropriate physical punishment of children be prohibited in NSW law, in line with international covenants on the rights of the Child. However, the Commission considers the proposed Bill a pragmatic alternative that clarifies what is unacceptable physical punishment of children and attempts to protect their interests, safety and wellbeing.

Mr Chris Sidoti, Human Rights and Equal Opportunity Commissioner, said:

> I welcome the legislative proposals for removal of the defence in circumstances where the child being punished is hit above the shoulders or with any instrument other than an open hand or when the punishment results in harm. These proposals give added protection to children without undermining the ability of parents or caregivers to provide children with appropriate levels of guidance and discipline.

> Physical abuse, in the imposition of discipline and in other contexts, is a serious problem that afflicts many children throughout Australia. This does not sit well with the human rights principles to which Australia subscribes. Those principles state that children, because of their vulnerability, needs special care and protection, that they must be protected from all forms of abuse and mistreatment and that their best interests must be a primary consideration in all decisions affecting them.

Mr Paul Nicolaou, Chairperson of the Ethnic Communities Council in New South Wales, said:

> All children, irrespective of race, ethnicity or social background, should have a basic human right to safety and safe treatment and such right must be embedded in law.
>
> Physical abuse should not simply be considered in terms of those gross acts where children sustain abhorrent forms of injury but should also include the insidious application of force which generally goes unnoticed but is equally as damaging to a child's wellbeing (e.g. intermittent and continuous slapping, applied over time, can cause tissue damage and may result in severe emotional or psychological dysfunction or disturbance in a child).
>
> To highlight why bodily parts should be viewed as a weapon or object that can injure, maim or kill we point out that a single well placed blow to parts of a child's anatomy may cause simple injury or even death — in this context the use of body parts could be viewed as a weapon or object that causes a serious or fatal injury.

On the point that the bill does not go far enough, he further stated:

> Injury is not always immediately apparent given differences in emotional and physiological responses to injury. Harm that lasts for a short period but that is continually applied over time is unreasonable use of force on children and should not be considered as some acceptable defence in any discipline of a child.
>
> The ECC hopes, in the Bill's passage, there will be some consideration of the issues and concerns stated above. The safe care and treatment of children must balance good law with good child and family supports at the local community level.

Amjad Ali Mehboob, Chief Executive Officer of the Australian Federation of Islamic Councils, wrote:

> I am pleased to advise that the Executive Committee of the Australian Federation of Islamic Councils has decided to extend its support for this legislation. We believe that this legislation will go some way towards addressing this vexatious problem.

The Australian Catholic Social Welfare Commission, under the hand of its acting national director, Mr John Ferguson, said:

> Improving systems of care and protection for children has long been a priority for the Australian Catholic Social Welfare Commission. This priority is based on the principles of Catholic Social Teaching which stressed the inherent dignity of every person and the particular rights which must be afforded to children. The above-mentioned Bill is in accordance with the right of every child to live a life free of abuse and mistreatment as it provides greater legislative protection for children from unacceptable physical punishment ... thus, the Bill does not seek to remove from parents their primary responsibility of guiding their child's growth and development in a reasonable way.

Mr Gary Moore, Director of the Council of Social Service of New South Wales, wrote this about the bill:

> It will bring a greater certainty to what constitutes "lawful correction" which will benefit parents as well as the children it seeks to protect from excessive physical force. We are happy to support any legislation which aims to limit the use of physical force against children and trust that it may act as a first step in a more public education process aimed at preventing physical punishment.

Alan Kirkland, Executive Officer of the Youth Action Policy Association, wrote to the Hon. A. G. Corbett in the following terms:

> It is our view that there is no excuse for the use of excessive force against a young person.
>
> We consider it unacceptable for the law of New South Wales to permit the use of a stick, belt or other object in a forceful manner against a young person. We also consider it unacceptable for the law to allow a person to apply force to the head and neck of a young person, other than in the most trivial manner. Furthermore, the law should prevent any person from causing lasting injury to a young person.
>
> ... it has our unqualified support.

A letter signed by Warren Johnson, Executive Officer of the Federation of Parents and Citizens Associations, states:

> Our Federation has wide-ranging policies on the health, well-being and protection of children and a commitment to the United Nations Convention of the Rights of the Child and we believe that the proposed Bill is entirely compatible with our organisation's policy commitments.

Judy Finlason, Co-ordinator of the Network of Community Activities, states:

> We consider that legislation which protects children from the excessive use of physical force to discipline a child is essential. Discipline should aim to encourage positive behaviour and not be based on violence and bullying.
>
> Network congratulates you for your ongoing advocacy for children's rights and supports your action in introducing this Bill to the Legislative Council.

Dr Judy Cashmore, the former Chair of the New South Wales Child Protection Council, who must be considered an expert in this field, writes:

> As you know, the trend in a number of common law and other countries is to limit the physical punishment of children in a move to bring the law and practice closer to the United Nations Convention on the Rights of the Child. Despite the concerns that are often raised in relation to parents' rights and the autonomy of families to set their own agenda about punishment, the research has clearly shown that there is no breakdown in moral order or parental discipline in those countries where restrictions are placed upon parents' use of physical punishment.

Clearly there is overwhelming support in the community for this bill, which conforms with the United Nations Convention on the Rights of the Child. This bill is a moderate step in the right direction. Parenting is a challenge, and obviously certain people have a narrow perspective about how to discipline their children. They view discipline as physical coercion. I am pleased that the Hon. A. G. Corbett has persisted with his bill, but I am disappointed that the major political parties do not realise that it will have a significant and positive impact on society.

I suggest to parents and those institutions supporting parenting that there are other ways of disciplining children, some of which have been referred to in debate today. Respect does not come through fear, physical violence or threats. Children who are threatened might display a certain type of respect—a coward's respect—which does not add much to the wellbeing of society. Respect comes from working together. Respect is earned through the appropriate action of parents. This bill will assist in getting that message across to the community and to parents in general. There are other ways of disciplining children. Corporal punishment belongs not just to the last century but to the century before that.

The Hon. J. S. TINGLE [3.03 p.m.]: When the Hon. A. G. Corbett first introduced this bill in 1997 I found it quite unacceptable. I, along with many other honourable members, formed the view that it was an anti-smacking bill. I have been concerned for many years about the steady erosion of parental authority and the determined undermining of discipline that is necessary for every one of us, but particularly for children in their formative years. I was totally opposed to the honourable member's bill to ban caning in schools because I am aware that it is becoming more and more difficult in schools to maintain discipline—discipline in the sense of practical and realistic control of unruly children—children who can disrupt the smooth running of a school and cause serious problems for other children.

For that reason, and because of concerns expressed to me by a number of teachers at that time, I opposed the caning bill. But it was passed—as honourable members who are present in the Chamber will remember—after a marathon overnight session. I suppose I approached the honourable member's 1997 bill, which was entitled the Crimes Amendment (Child Punishment) Bill with the same frame of mind, concerned that the psychological authority that had been removed from schools was now also being reduced for parents. It seemed an unnecessary intervention by the State in what I would hope, in most cases, is the loving guidance and discipline of children by their parents. It seemed to take a far too unrealistic approach to the question of how and when a parent may chastise a child and I suspect within in it was a hidden agenda of social anarchy.

It is interesting to note that this bill is called, in part, not the child punishment bill but the child protection bill. I believe that that embodies the essential differences between the 1997 bill and this bill. It also reflects a different and more moderate approach to the question that the bill seeks to address—a matter referred to in debate today by the Hon. J. P. Hannaford—the essential balance between the right of the parent to chastise and to control a child and the right of a child not to be unjustly, cruelly or abusively punished or, in the words of the bill, excessively punished. The Hon. J. P. Hannaford said that this is one matter which must be encapsulated—to use his word—by this Parliament.

This bill is an honest and fairly effective attempt to do just that. I am encouraged that the defences against a charge of assault have been clarified and made more comprehensive and that the position and the entitlement of a parent to legitimate chastisement are also more clear. But, as always, the vexed question of what is reasonable and what is not reasonable must remain a matter of specific value judgment in individual cases in individual circumstances. However, with that observation I still believe that this is an attempt to encapsulate or to clarify the rights of both parents and children and that the whole community should feel more certain of what is right and what is wrong if this bill becomes law.

In conversations with the Hon. A. G. Corbett I have been reassured that this is not and should not be seen to be anti-smacking bill. I now accept that. He has refined the thrust of the bill to make it clear that it is about unnecessary, excessive, or violent abuse of a child under the guise of lawful punishment. "Excessive" is the key word. Nobody could disagree with the prohibition of hitting children with implements that could amount to weapons, and I hope that no sensible person these days would ever indulge in the time-honoured, grandma pastime of boxing a child's ears. The horrific possibilities of striking a child's ears in a way that could damage his or her hearing should preclude that sort of behaviour anyway.

I note that a number of learned organisations in paediatric, social, educational and parenting fields have endorsed this bill. Obviously they believe that it is a much-called for protective measure. I also endorse it, but I find it strange that the Hon. J. F. Ryan does not condemn it outright. He acknowledges that it is supported by experts and he says that, if it were up to him, he would support it, but the Opposition will not. Nobody could doubt the sincerity and the passion with which the Hon. A. G. Corbett pursues his specific agenda in this Parliament. Sometimes some honourable members do not always understand his methods or his attitudes, but I believe that his intentions, particularly with this bill, are beyond question. I compliment him on a much better effort this time. I am surprised and disappointed that the Government will not support the bill, as it seldom supports legislation of this type that it has not introduced itself. I offer the bill my support, but it appears that the bill will not succeed. So be it. But I see the causative fault of that to be not in the bill itself but perhaps in the fact that it is an idea ahead of its time.

The Hon. PATRICIA FORSYTHE [3.08 p.m.]: Parenting in this modern and mobile society is one of the most difficult tasks facing any parent. Parents are not well geared to cope with the most important task that they are faced with in life: being a parent. At one time, children in large and extended families learned to be parents from watching their parents cope over a number of years with babies, younger children, or other members of the family.

In this day and age that rarely happens. In a society in which the average family consists of about two children, and three children is considered to be a large, very few children have the opportunity to see younger children being reared and thus learn from the example of their parents or older siblings. That is something that marks our society as quite different from those that have gone before. Therefore it is my contention that as a society we have to do much better at preparing people to be parents and then supporting them. However, I do not support prescribing it as part of our school curriculum. Our school curricula are, in my view, overloaded and it is not a responsibility that we should be placing on teachers and schools per se. But, we do have to find mechanisms to give better guidance to young people as they become parents.

I raised this issue with the Hon. A. G. Corbett when he came to see me some time ago about this bill. His response was that he accepted that we need to do more to get the message through to the community, and he was looking for a 12-month period between the bill going through the House and its gazettal, and in that time there would be public relations media campaigns. Although I am quite attracted to aspects of this bill, I support the position the Opposition has taken. I believe that we have to do that as a first measure and then examine the position to see whether we need the bill. I recall, for example, the Government's frequently announced Don't Shake a Baby campaign. The Minister re-announced it just a couple of weeks ago. Of course, to most of us that is reasonably fundamental. I do not think any member of this Chamber would have any doubt, being well-educated and having a broad knowledge of social issues, that shaking a baby represents a serious threat to that baby.

However, many other people in the community are not armed with that sort of knowledge. It is not something that is inherent in our make up; we have to learn these things. There is very little about parenting that is instinctive if one has never been exposed to the rearing of small children. I am a firm advocate that we must do more to educate people to understand their roles as parents. This is a government responsibility. The very first thing the Government needs to do, given that the Government is not supporting this legislation, is to give a real dollar commitment towards a public relations media campaign promoting good parenting. When one tells parents there are things they cannot do, one must arm them with the strategies they can do. This bill does not ban smacking—I wish every member of the House and colleagues in the other place had read it—but it does provide that a parent is using unreasonable force if it is applied by:

> … the use a stick, belt or other object (other than … in a manner that could be reasonably considered trivial or negligible in all the circumstances)

I contend that the age of the child would impact on whether one could use any sort of stick or object. My view is that to use such an object on a small child, a child under two, three or four—I am not even sure what age would

be acceptable—would be too much. A sharp word would be preferable. In the case of an older child it may be considered reasonable, if it is negligible, to use a wooden spoon, as someone suggested earlier. Unless we start to educate the community about what children of different ages may be able to cope with—what the slap of a hand may mean to a one-year-old child compared with a five-year-old child—and unless we start to educate parents, merely prescribing what one can or cannot do will not be sufficient.

The points made by my colleague the Hon. J. P. Hannaford were germane to the whole issue. Many parents want the law codified, they want better guidance. I believe the point will be reached when we will codify the law in the way this bill proposes, but I strongly suggest that we are doing it in the wrong order. Rather than introduce this bill, we need a public relations campaign to better train and educate parents. I am not convinced about the 12 months, because I am not convinced that the Government would have the dollars available, and I am not sure how far it is committed to a public relations campaign, which is so vital.

We should take the issue of better parenting extremely seriously. I found myself confronted with the issue of child protection and child abuse when I was the relevant shadow Minister. When I look at the list that the shadow Attorney General provided of the 17 organisations that are prepared to support the bill, I see names I would have turned to for advice as shadow Minister. They include Centrecare, whose director is Father John Usher; the Association of Children's Welfare Agencies, with Nigel Spence as the chief executive officer; the Federation of Parents and Citizens Associations; the Community Services Commission, to whom I referred many cases as shadow Minister; the Human Rights and Equal Opportunity Commission, for whose work I have enormous respect; and the New South Wales Commissioner for Children and Young People. I cannot ignore the fact that they support this legislation. That is very compelling to me, but my concern is that as a society we may do better if we approach it the other way.

The message must be that we have to take parenting more seriously and that the images of battered children should confront and frighten us all. The community should be prepared to try to do more work to support families that do not understand what it means to be good parents; to support families that cannot support themselves; and to support families that do not know better and where ignorance is a factor. Ignorance is certainly a factor in many cases. If we say there are very limited cases in which one can smack children, we must give parents a strategy and help them understand better approaches to discipline. For example, I fear that for some parents the option might then be to put their children in a locked room. The sort of emotional damage that can do to a small child or a child who is afraid of the dark can be just as severe as the damage it receives from physical punishment.

The Hon. C. J. S. Lynn: Often worse.

The Hon. PATRICIA FORSYTHE: Yes, often worse. But we must help parents to understand the range of strategies at their disposal, how to be better parents and how to confront children with severe emotional problems—such as attention deficit disorder or one of those problems that impact on their behaviour—preferably without the need for drug intervention. We have to help parents at the end of their tether not to lose their tempers and not to give the children a hard backhand, or worse. We will not move forward as a society if we introduce a bill that does not support and help parents.

I believe that the message that an open hand is sufficient and is the limit at which parents should be aiming is a good start. It is a good way forward. I listened to the messages in this debate about reasonableness and prescribing basic principles. This bill is reasonable and puts in place simple principles. Fundamentally, in terms of legislation, I always believe in small government: less is more. Whether the legislation relates to families or planning matters, honourable members know that I have a fairly right-wing and strident attitude about how much neighbours should be able to interfere. This bill contains some fundamental principles that do not sit comfortably with my philosophy of government.

As a community we must do more to support and help parents. If the Government will not support this bill it must be prepared to do more to support families and parents, and to teach them how to be good parents. We must set some lines in the sand about the number of children referred to the Department of Community Services. We must take an in-principle stand about that. It is not enough merely to prescribe the fundamental principles without providing funding to help and support families do better, particularly families with a lack of education and knowledge. At times the Minister for Community Services and I have expressed concern that the things we take for granted, such as information about good nutrition and the principles of hygiene, which we assume mothers convey to their children, is not always available in the community.

I cannot support this bill because I think we have got it the wrong way round. However, I support the principles and what the Hon. A. G. Corbett is trying to achieve in this bill. The Government has taken a courageous step in deciding not to support the bill, given that a large number of organisations have spoken out in defence of it. Let us as a Parliament make a statement that we believe in doing better, as parents and as a society, to support and protect our children. It is no good simply passing legislation that puts in place such measures as the establishment of a commissioner for children and young people unless we do better as a society.

There is a message in this bill. I am sorry that the bill will not succeed now. It has certainly come a long way from the bill that the Hon. A. G. Corbett introduced a few years ago. I suspect that there is a mixed message in the community, that people do not understand that this bill will not ban smacking. The bill is a reasonable attempt to codify the common law. As my colleague the Hon. J. P. Hannaford said, many parents are looking for guidance. That is why I believe that within a couple of years this bill will be introduced in the right place at the right time. However, before we reach that point, let us make a real effort, with real dollars, to do better to support and promote good parenting in our society.

The Hon. Dr P. WONG [3.23 p.m.]: I strongly support the bill introduced by the Hon. A. G. Corbett. Although I share many of the sentiments expressed by the Hon. Patricia Forsythe, I believe that opposing the bill is a regressive step. It is not a brave step; it is a terrible step. I condemn the Government for not having the vision and wisdom to accept that this is a positive bill—it can be amended by honourable members—that goes to the heart of child protection. I am dismayed that the Opposition does not support the bill. I have great admiration for the Hon. J. P. Hannaford, and I was convinced by many of the statements he made. I regret that the Opposition has failed to take on board and support his learned opinion.

I speak to this bill not only as a member of Parliament representing a very diverse community but also as a father of four children, a medical practitioner and a Christian. I emphasise that as a Christian I am forever reminded about the teachings of the *Bible* that Jesus Christ loved children. Indeed, Jesus taught us that unless we become one of the children we will not enter the kingdom of heaven. Christianity is about love, compassion and forgiveness; it is not about punishment and damnation. I shall quote a letter in support of what I am saying. A letter from the Australian Catholic Social Welfare Commission stated in part:

> Improving systems of care and protection for children has long been a priority for the Australian Catholic Social Welfare Commission. This priority is based on the principles of Catholic Social Teaching which stress the inherent dignity of every person and the particular rights which must be afforded to children. The abovementioned Bill is in accordance with the right of every child to live a life free of abuse and mistreatment as it provides greater legislative protection for children from unacceptable physical punishment.
>
> By codifying the common law on reasonable chastisement, the Bill seeks to improve levels of protection for children without undermining the ability of parents and caregivers to appropriately discipline children. Thus, the Bill does not seek to remove from parents their primary responsibility of guiding their child's growth and development in a reasonable way.

Some of my friends in the Parliament have said that that may be so, but the Arabic-speaking community may not feel the same way. A letter from the Australian Federation of Islamic Councils stated in part:

> Further to our discussions and your letter of 3 March 2000, I am pleased to advise that the Executive Committee of the Australian Federation of Islamic Councils has decided to extend its support for this legislation. We believe that this legislation will go some way towards addressing this vexatious problem.

That is interesting. Christianity is not about punishment. Christians are not bigots. Or are they?

The Hon. R. S. L. Jones: Suffer little children, according to some of the fundamentalists.

The Hon. Dr P. WONG: Yes. As a Christian I believe that I have the holy spirit. I do not believe that Christianity is a property belonging to honourable members in this House. I strongly object to certain views which supposedly represent what Christianity is all about. This bill is not about pointing an accusative finger towards parents. It will not cause a witch-hunt against parents who choose to discipline their children by slapping them with an open hand. It is about protecting our children from excessive punishment which may cause serious psychological and physical harm to a young child, and even death. Above all, this bill is about setting guidelines for parent education and assisting good parenting.

Although our legal system has advanced significantly in the areas of human rights, antidiscrimination, protection of the rights of women and minorities, and defamation, when it comes to the protection of children we are very much stuck in the past. While hitting an adult person would automatically count as abuse and attract corresponding sanctions, the same forms of protection do not apply to our children. While we as the State and

the nation put significant emphasis on upholding civic norms and values, we fail our children and their parents by not providing clear guidelines about the norms and values of parenting, as clearly stated by other speakers in this debate.

While we dedicate funds and energy to providing family support programs and parent education courses, when it comes to disciplining our children we lack purpose. We are willing to protect children by taking them away from their abusive parents and placing them in alternative care, but for some reason we are not willing to acknowledge that current common law provisions do not provide any clear guidelines to deal with physical punishment of children and that they may therefore contribute to child abuse.

It must be acknowledged that most child abuse happens because parents, for one reason or another, apply physical force with the aim to discipline or punish a child. In most cases, physical discipline is controlled and does not harm the child. This bill does not apply to those cases. However, most child abuse cases display a pattern of parents intentionally or unintentionally hurting their children by crossing the boundaries between physical punishment and assault. The most evident deficiency with the common law in this area is that it does not specify where the boundaries lie. It does not provide clarity and certainty about how physical punishment of a child can be administered without hurting or assaulting the child. This bill clarifies those matters.

The bill is strongly supported by a large number of community organisations and agencies concerned with the health and welfare of children, and with social justice issues. They include the Commission for Children and Young People, the Community Services Commission, the Human Rights and Equal Opportunity Commission, the Division of Paediatrics of the Royal Australian College of General Practitioners, the Australian Medical Association, the Ethnic Communities Council, the Council of Social Service of New South Wales, and many other organisations. In fact, I have never seen such strong community support for a bill before this House.

I am now convinced that this Government has become more conservative and elitist by the day in refusing to hear the views of the community about important social justice issues. Sometimes the Government refuses to hear the views of the community on any issues whatsoever. Who is the Government listening to instead? Is it listening to the fundamentalist Christians who say "Go to hell"? Is it listening to so-called Christians who believe that if you spare the rod, you spoil the child? Is it the decision of Jesus Christ? I do not believe so. If the Government is adhering to these views, it is easy to explain why we are so far behind other countries with regard to human rights and social justice. We should not just blame John Howard. We have similar people here in this House and in this Government.

[*Interruption*]

I do not refer to the Hon. D. F. Moppett; he is a wonderful person. I strongly believe in non-physical methods of discipline. Those methods involve positive affirmation, talking, and loving the child at every step of the way. Children are intelligent and highly sensitive. They understand feelings such as anger and disappointment on the part of their parents when they do something that their parents would disapprove of. They understand that their parents love them and want to correct their actions. All of these matters can be communicated through talking and positive expression of feelings. I am sure that paediatricians would concur with that view. How can we justify the use of physical force on our own children as an effective form of communicating our anger or disapproval?

We are insulting our own intelligence and the intelligence of our children if we claim that the use of force is not justifiable in cases involving adults but is justifiable when it is used against our own children. We propagate human rights for all, and we condemn the use of force or the threat to use force in all other circumstances. However, we will not uphold this approach when it comes to children—our future citizens and adults. I have heard some parents express the view that they need to use force to teach their children about how to become responsible adults. However, by using force they are really teaching their children that it is okay to hit a people if you have authority over them and you are stronger than they are. Children replicate the behaviour of their parents while they are growing up, and even as adults. Members would be aware that people who are abused as children abuse others when they grow up.

The Hon. R. S. L. Jones: They abuse their own.

The Hon. Dr. P. WONG: They abuse their own children as well, that is right. Children are more likely to use force to solve disputes with other children, siblings, in their adult relationships, and in the street. I have listened to parents who propagate physical punishment as an efficient form of discipline, and I am convinced

that they do not understand the long-term behavioural patterns that they are instilling in their children. Parents would argue that they love their children and would not want to hurt them in the course of correcting them. But do children know this? I ask honourable members whether they can remember being smacked as a child and wondering why they had to be hit instead of being talked to. What did they feel when they were hit hard? Did they fear their parents, or did they respect them? I believe they felt fear and pain. Maybe there is a teaching in the Old Testament, "Fear your God or go to hell". Again, that is not the Jesus Christ I know and that is not the God I know.

I have received letters from the Ethnic Communities Council of New South Wales indicating its support for the bill, and claiming that a number of organisations would be effective in providing necessary parent education such as the Community Services Grants program. I strongly endorse the council's opinion. As a doctor who has experience with injuries, I am only too aware of the harm that can be caused to a child by an adult who believes in using reasonable force. I strongly agree with the policy statement of the American Academy of Paediatrics—which the Hon. A. G. Corbett referred to in his contribution—that any form of physical punishment that leaves marks on a child and is done in anger can be dangerous to the health and wellbeing of the child. I also strongly endorse the statements by Professor Kim Oates—a widely respected doctor and Chief Executive of the New Children's Hospital Westmead—that child abuse is too often a consequence of inappropriate physical punishment, which may also be unlawful. Most parents would not know, until it is too late, whether physical punishment is inappropriate. This bill sets the boundaries.

The bill sets the guidelines and establishes educational systems for parents that will lead us into the future, not only in parenting but also in establishing better human relations. I regret that it is likely that the bill will not be passed. I congratulate the Hon. A. G. Corbett on his efforts over the past four years. I have listened to the contributions of members today, including those who find it difficult to support the Hon. A. G. Corbett, and I believe that most of his message has had the desired impact. I know that his efforts will not be wasted. Perhaps this bill will be presented again in the future. I wish the Hon. A. G. Corbett well.

The Hon. Dr A. CHESTERFIELD-EVANS [3.39 p.m.]: The Australian Democrats support the Crimes Amendment (Child Protection—Excessive Punishment) Bill, which has been introduced by the Hon. A. G. Corbett. We believe that the purposes of the bill are entirely justified, namely, to limit the use of excessive physical force to discipline, manage or control a child by prohibiting: the use of a stick, belt or other object; the application of force to any part of the head or neck of a child; and causing or threatening to cause harm that lasts more than a short period. The objects of the bill are no more than a reasonable statement of what a well-controlled and thoughtful parent or common law judge, taking into account the circumstances, would consider reasonable. This bill merely codifies what should be a standard of conduct and I believe it deserves to receive bipartisan support.

I pay a tribute to the Hon. A. G. Corbett who has pursued this issue single-mindedly since becoming a member of this House under the slogan of "A Better Future for our Children". The honourable member received from the Government an undertaking of support. The Government received a good deal of support from the honourable member during the Fifty-First Parliament but let him down immediately prior to the most recent election. I must say that it would be very disappointing if the Government let him down again.

The Hon. A. G. Corbett has received widespread support from experts in the field in relation to this. He has canvassed opinions widely and this legislation has not come out of a broom cupboard. He has received letters of support from the Division of Paediatrics of the Royal Australian College of Physicians, the Royal Australian College of General Practitioners, the Australian Medical Association, Professor Kim Oates, the Law Society of New South Wales, the New South Wales Commissioner for Children and Young People, the Community Services Commission, the Human Rights and Equal Opportunity Commission, the Australian Federation of Islamic Councils, the Australian Catholic Social Welfare Commission—particularly Father John Usher of Centacare, the Association of Children's Welfare Agencies, the Council of Social Service of New South Wales [NCOSS], the Youth Action Policy Association and the Federation of Parents and Citizens Associations. It could hardly be said that that is a list of radicals or fringe groups.

The Australian Democrats support amendments of the Crimes Act and calls on the Government to increase funding for the Commission for Children and Young People to provide necessary education of parents throughout New South Wales in relation to alternative discipline and behaviour modification techniques for children. I believe this is extremely important because, owing to the decline of extended family arrangements, there are fewer role models for younger parents, who need to know how to handle their children. As children grow older, they experiment with how far they can go in exercising their personal assertiveness. It is a natural

course of conduct for a child to see how far he or she can go which causes a parent to react. The issue of management of the conflict that is a normal part of a child's development is the issue that this bill addresses in its attempts to set limits that apply to disciplining children. It would be a great benefit if the Government implemented a program to promote positive parenting and provide parents with a sense of direction. I mention that in the light of the decrease in the number of extended families and the increase in the number of single-parent families that has eroded role modelling which was previously a feature of family life.

Although I am not sure whether this is actually the case, there is a perceived increase in violence against children. However, I am sure that children pick up quickly on emotionally charged situations. It is a moot point whether television games or violence shown on television or in films has had an effect. At times I have found my young son shouting without any apparent reason. I asked my wife why he was doing that and she said that he had been watching my reaction to the Prime Minister, Mr Howard, on television. I reflected on my wife's observation and had to admit that there may have been a sound basis for that explanation. I have amended my habits while watching television.

One of the difficulties associated with this bill is that it involves the State having a role in the family which, for some people, is an emotionally charged issue. However, if the State is merely defining the limit of behaviour within the family or setting the limit on the rights of one person to be the stage at which that person's conduct harms another person, I believe that the State has a legitimate role on the same basis as its power to regulate all behaviour between people. It is quite unsatisfactory for family life to provide protection for parents who abuse their children. The violence that is sought to be prohibited by this bill is effectively excessive use of violence that is greater than what is considered reasonable. The same objection to State intervention was used to apply to domestic violence offences in the sense that it was all right for a person to assault his wife but it was not all right for the same person to assault anybody else. The stage was reached when domestic violence came to be recognised as a form of assault; similarly, on any reasonable and sensible view, excessive punishment is a form of child abuse.

This bill is helpful in defining extreme circumstances but management of normal circumstances is difficult. The provision of a parent education program is worthy of government funding. The people who argue in support of better child care say that it is much easier for bad behaviour to be discouraged early in life than it is to correct behaviour being exhibited by young adults who are far more fixed in their behaviour, thought patterns and responses to situations. It should be noted that this bill operates only after a criminal assault has occurred.

Society is quick to complain about the violence of children in the modern world, the violence shown on television and in movies and the use of computer games. Current affairs programs and popular magazines provide reports on how terrible children are. I am part of a generation that is perhaps more scared of young people than has been any previous generation, which is a poor reflection on the way that this generation has managed the upbringing of children. The primary source of influence on behaviour is the behaviour of parents or the primary caregiver. That is a point that must be remembered and it is an issue that must be addressed.

Children pick up quickly on behaviour exhibited by their parents. Instances of almost any behaviour exhibited by my son causes me to turn to my wife and say, "Was it you or I, dear?" I have to admit that when my son started shouting, it was probably the television and I that were at fault. But I blamed Prime Minister Howard, of course. Who would not?

This bill is controversial but the point has to be made that the title has been changed from the Crimes Amendment (Child Punishment) 1997 to the Crimes Amendment (Child Protection—Excessive Punishment) Bill. In a sense, the name-change reflects an evolution of the bill into a milder form which is a more highly developed form, reflecting an unexceptional and reasonable approach. If violence occurs in the home, the State must act to protect those who are vulnerable and in the context of this legislation, that would be young children. Domestic violence—that is, violence within a relationship—is a clear example of when the State must act to protect a victim. The fact that a criminal assault occurs within the family home does not protect the perpetrator from facing charges in the context of domestic violence.

Child abuse is a scourge on our society. Children who are witnessing forms of domestic violence are also experiencing a form of abuse. Honourable members should place themselves in the position of a young child who witnesses his or her parents or caregivers yelling, screaming and assaulting each other. This is the view of a child living in a home with domestic balance. The State has recognised that this is unacceptable and police will take action to protect the victim from violence. The State should also be able to protect a child from violence in the home. If adults were hit with an implement such as a stick, or hit around their head, the police would be able to charge the perpetrator with assault; we should also be able to protect a child from that level of assault.

We should not look at this bill in a purely punitive way. It is about protection and prevention. When similar legislation was introduced in Sweden it ensured increased domestic funding for parent education programs. The legislation was introduced with a raft of parenting programs—that is, in a positive fashion—and the families of Sweden benefited. The families of New South Wales are keen to take advice on parenting. When the Department of Community Services [DOCS] released its "Parenting" booklets in a Sunday newspaper last year it had the largest increase in sales for the whole year. The department stood proudly on that success. Further, the department had a stall at the Royal Easter Show and distributed thousands of leaflets. That is encouraging and shows the dire need for positive parenting and relationship programs.

There has been some scaremongering that this bill will introduce parenting police, et cetera. I should highlight exactly what the bill does. The punishments provided under the bill are small. The provisions of the bill come into effect after DOCS is involved, and when a parent is charged with assault. This bill will deny the parent the defence of lawful correction when he or she assaults a child. It will also put an end to the legal use of the cane which has been in place in State schools for many years. This legislation is much more instructive than punitive. To borrow a slogan from DOCS—Parenting: the most important job in the world.

Another point often made is that people need a licence to drive a car or to own a dog, but they do not need a licence to raise a child. One should think of all the money spent on driver education, testing, surveillance, constant graphic advertisements on billboards, television and the radio, and the research and development to make safer cars, safer roads and safer crash barriers. Child rearing is much more difficult than driving a car. It follows that there should be a lot more instruction and help for parents, especially in the early years with changing demographics and an increased incidence of single, young parents, and the decline of the extended family. It is disappointing that some people within the church do not support this bill. I do not understand why, if the church preaches love and kindness and that people should love their children, it would not stop parents acting in this way. It seems to me perfectly reasonable.

I have doubts about those who pretend they are opposing this bill because it is the will of God. I was disappointed with the interjections of Reverend the Hon. F. J. Nile about interfering with the United Nations convention. When Reverend the Hon. F. J. Nile discussed the safe injecting rooms legislation on 4 April he mentioned the International Narcotics Control Board and said it is "a most influential body operating under the authority of the United Nations". He also said, "That statement by the board refers back to the treaty of which Australia is a signatory." He quoted clause 494 of the treaty. He then said:

> Obviously, conventions are signed at a Federal level but each State Government is expected to support United Nations conventions because each State is a sovereign government. There would be little point in the Federal Government signing a convention if it was only to be observed by the Federal Government in isolation, for example, in the Australian Capital Territory or the Northern Territory. I know that the Special Minister of State, Assistant Treasurer is aware of these matters but I call on the Government to carefully review its decision with regard to the injecting room and any other proposals that may be in contravention of United Nations conventions.

Reverend the Hon. F. J. Nile: It should have been the singular, "convention".

The Hon. Dr A. CHESTERFIELD-EVANS: It says "conventions". The United Nations Convention on the Rights of the Child is clear. It says:

> State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

That is all unexceptional, commonsensical and confidential. It comes from the highest authority in the world—the United Nations—which we have ratified at a national level and we are now talking about implementing in this House. Today I was impressed by some of the contributions from the Opposition, particularly the Hon. J. P. Hannaford. In his obviously committed and passionate speech he drew from his experience as Attorney General of this State. He said it was good to define what people could and could not do as it gave clarity to the law. From his experience we could learn a lot. It is disappointing that the Government has suggested it will not support this legislation. I hope it will change its view. I have received copies of letters sent to the Government from various groups asking for support from the Government. On 8 May Chris Sidoti from the Human Rights and Equal Opportunity Commission wrote:

> Dear Mr Corbett
>
> … I was very disappointed to hear that the Government has decided not to support this important reform. As requested, I have written to both the Premier and the Attorney-General, registering my concern and strongly urging them to reconsider their position in relation to the Bill.

The Community Services Commission wrote:

> I understand that the Crimes Amendment (Child Protection—Excessive Punishment) Bill 2000 has been introduced into the Upper House. I commend the Bill to you and urge you to ask the Government to support the Hon. Alan Corbett in this matter.
>
> The Community Services Commission has been interested in the issue of excessive physical punishment of children for many years. All too often 'punishment' is used as an excuse by parents and carers, who unfortunately cross the line into child abuse. The attention and resources of the Department of Community Services may then become involved, when better and clearer guidance to parents and carers may prevent such costly intervention.
>
> We have supported Mr. Corbett in his effort to achieve reasonable wording of a Private Members Bill since 1996. His effort has enabled us and many other organisations involved in protecting children's interests to give the Bill our support. We believe the Bill as drafted makes clear the limits of physical punishment without restricting parents in the use of reasonable discipline. Parents may, in fact, be supported in their challenging role.
>
> We understand a community education campaign would be undertaken if the Bill is passed. It is therefore likely that the Bill, when enacted, will become a preventative measure, like many other aspects of the Criminal Code.

Dr Judy Cashmore, an acknowledged expert in this field, wrote:

> I understand that this Bill is to come before the House again on Friday but that the Government does not see fit to support it despite the assurances given to Alan Corbett MLC over the past two years or so and the considerable work with the Criminal Law Review Division of the Attorney-General's Department in drafting and re-drafting the Bill to meet the Government's concerns.
>
> I am very disappointed that the Government is unwilling to take this small but important step in clarifying the law and furthering the protection for children from the physical harm they can suffer if they are struck on the head and neck or with an implement. The Bill has the support of the peak medical bodies in New South Wales, and in particular Professor Kim Oates, head of the New Children's Hospital and former Convenor of the NSW Child Death Review Team. Their support comes from their experience of seeing at first hand the injuries that children have received from excessive punishment.
>
> The aim of the Bill is to make it very clear to parents and others with parental responsibility what constitutes excessive physical punishment. The Commissioner for Children and Young People has publicly supported the Bill and is willing to assist in the public education of parents about the Bill and more appropriate means of disciplining children. Legislation *and* parent education together provide the best means of achieving the objective of the Bill. The research evidence indicates that parent education by itself is not an effective way to change parental attitudes and behaviour towards children.
>
> Furthermore, as I am sure you are aware, the Bill is consistent with the Model Criminal Code Report. Passing this legislation would also stand New South Wales in good stead in reporting to the UN Committee on the Rights of the child. I find it hard to understand why the Government is not supporting such a reasonable and limited measure as preventing the abuse and assault of children as a result of excessive physical punishment.
>
> I hope that the Government will re-consider its position and support the Bill.

She has written a similar letter to the Opposition. I think it must be conceded that this is a moderate and reasonable bill. It is supported by a large number of experts in the field. It is certainly supported by the Australian Democrats. Both Government and Opposition should support this entirely reasonable bill.

The Hon. M. I. JONES [3.59 p.m.]: I speak to the Crimes Amendment (Child Protection—Excessive Punishment) Bill from the position of a parent of three children of whom I am very proud. I am especially proud of their behaviour. I do not agree that the legislation is not an anti-smacking bill. Were the bill to be passed in its present form, it would send a confused signal to the public. When is a smack to a naughty child deemed abuse? That is the overlying question on what the bill seeks to address. The Hon. A. G. Corbett, in introducing the bill, said it was designed to strengthen existing laws to prevent parents from having the right to discipline their children with what many may consider to be the meekest smack. The Hon. J. F. Ryan said that it is already illegal in New South Wales to punish a child unreasonably.

The precocious child, however, will be able to report parents for the smallest of disciplinary smacks, and the authorities will be compelled to investigate those complaints. This puts the traditional family unit under attack as never before. The bill adds to a list of devices and instruments that prevent families from determining how to manage their own affairs. Existing laws are punitive to child abusers. This amendment seeks to prevent legitimate discipline in the family home. Violent, uncontrolled young people—there are plenty of them on our streets—are a major problem, and the problem is worsening. As the family unit is eroded by twenty-first century life, this type of social engineering is simply not required.

The removal of options for families to manage their own affairs is not necessary. Thankfully, the Carr Labor Government has announced that it will not support the bill. If commonsense prevails, neither will anyone else support the bill in its current form. I would like to spend a short while referring to some comments made by a number of honourable members. I take exception to the attack by the Hon. R. S. L. Jones on what he called fundamental Christians. Clearly, he drew a longbow. I would imagine that fundamental Christians are not part of his constituency. By comparison, I would be interested to know how many children are admitted to hospital or are reported to the Department of Community Services due to their abuse by drug-misusing parents. Such examples are conspicuous by their absence from the argument of the Hon. R. S. L. Jones.

I do not know how many honourable members have seen the film *Trainspotting*. It was most disturbing. The opening scene is of a mother of a small baby, where the mother has been "out of it" for three days with the child left to its own devices. That is truly child abuse. I mention that in passing. The comments made by the Hon. J. P. Hannaford this morning were very helpful to the debate. He posed the question of what is "appropriate or sufficient force under the circumstances" as being infinitely more appropriate. To me, the bill, in its present form, is not appropriate or sufficient whilst it contains new section 61AA (2) (c). Subsection (2) provides:

> The application of physical force is not reasonable if:

It goes on to list three circumstances. If the bill sought to insert a provision that set out what is reasonable physical force—and I am not in any way trying to suggest that Parliament put forward a prescriptive formula for suitable punishment—or gave better guidelines relating to subsection (2), we may be able to deliver to the public a bill that is clear of ambiguity. Subsection (2) (c) refers to force that causes to the child harm that lasts for more than "a short period". That provision is too wishy-washy. If the bill could be redrafted and that matter could be addressed—and I must admit I do not have the solution to this—perhaps the bill could realise its potential. But it would not do so in its current form.

I would like to endorse a comment made by the Hon. I. Cohen, who said he looked forward to this legislation revisiting the House at a later time, and hopefully in a different form. I will not dwell on this issue about potential changes to the bill simply on the basis that the Government will not support it. However, I have to refer to the Coalition as the two-bob-each-way Opposition because of the incongruous comments made by its individuals and the overall stance of the Coalition parties on this issue.

The Hon. J. F. Ryan: We have broad views on it.

The Hon. M. I. JONES: I prefer to call it two bob each way, particularly given the ambiguity of the Hon. J. F. Ryan on the issue.

The Hon. J. F. Ryan: My comments were not ambiguous.

The Hon. M. I. JONES: There were contradictions with your party line. In its current form, I cannot support the bill.

Reverend the Hon. F. J. NILE [4.06 p.m.]: The Christian Democratic Party opposes the Crimes Amendment (Child Protection—Excessive Punishment) Bill. The Hon. A. G. Corbett has introduced a number of bills on this issue of parents smacking or disciplining their children. As honourable members know, he was successful in presenting a bill that prohibited physical discipline, or corporal punishment, in State schools and non-government schools, including Catholic and Christian schools, even where the parents made written requests for the retention of such discipline because they believed it should be maintained. I do not think any honourable member of this House should be in any doubt about the objective of the honourable member. It is the objective on which I will focus.

The Hon. A. G. Corbett said in his second reading speech that his intention is not to prohibit smacking per se, that this is not a no-smacking bill. However, I believe the application of the bill equals a no-smacking bill. The Hon. M. I. Jones picked up one or two points from the bill itself. Often it is obvious from debates that honourable members have not read the detail of the wording of a bill, but this bill clearly states that a number of actions now taken by some parents are to be totally prohibited. The bill uses the code words "application of force"—that is, smacking. That is the interpretation of "application of force". The bill prohibits the application of force "by the use of a stick, belt or other object (other than an open hand or other than in a manner that could reasonably be considered trivial or negligible in all the circumstances)". As other honourable members have said, that would prevent the use of a wooden spoon or other things that mothers have used to discipline their children.

A mother would face a criminal charge if she used such a weapon. If this bill were passed and the details of it were publicised—I know that this bill will not be passed—the *Daily Telegraph* would run the headline: No smacking bill passed by Parliament. The small print in the bill would probably contain a number of qualifications, which would leave parents who needed to make any decisions in a grey area. So their decision would be to do nothing. The intention of the bill is to prohibit smacking, but one of the provisions within it states:

> ... the application of force—

which I interpret as smacking—

> to any part of the head or neck of a child (other than in a manner that could reasonably be considered trivial or negligible in all the circumstances) ...

The application of force is totally prohibited. There is another grey area in the bill. Paragraph (c) of the overview of the bill, which relates to smacking, states:

> to any part of the body of a child in such a way as to cause, or threaten to cause, harm to the child that lasts for more than a short period.

That provision relates to parents who have already smacked their children or parents who are threatening to cause harm to their children. A mother in a shopping centre might say to her child, "If you do that again I will smack you. If you pull over that trolley or that stack of vegetable cans you will be smacked." The bill will prohibit parents from threatening to cause harm to their children. Earlier an honourable member asked what was meant by "harm to the child that lasts for more than a short period". What does that mean? The original bill made reference to children experiencing a tingling feeling, or something like that. Someone will have to determine whether a short period is five seconds, 30 seconds or one minute. If a child experiences harm for more than five seconds his or her parents could be in trouble with the law.

If this bill is passed parents will be fearful of providing loving discipline or loving chastisement to their children—something that is part of their responsibility as parents. The Hon. A. G. Corbett, in his second reading speech, referred to some of the things that had been said by medical authorities. The Christian Democratic Party would not tolerate child abuse, whether it was in the form of physical or sexual abuse. We already have laws that deal with that. The Hon. A. G. Corbett also said in his second reading speech that if this bill were defeated—and I understand it will be—it would not create a vacuum. Newspapers will not carry headlines stating that parents can bash their children with cricket bats. The Hon. A. G. Corbett stated:

> The reasonableness of the punishment depends on all circumstances, but has been generally determined by reference to the nature of the alleged misbehaviour; whether a proper or reasonable instrument was used; the age, maturity, the other physical characteristics of the child; the location of the blows; and the extent of the harm or injury caused.

There is nothing wrong with that. No vacuum will be created, as was emphasised by the Hon. A. G. Corbett in his second reading speech. There has been some confusion—there is always confusion when we are dealing with legal terminology—but I do not believe that there is a vacuum in our society in relation to what can or cannot be done to a child. I have gone through a number of pieces of legislation that have been passed by this Parliament. The provisions in the Children (Care and Protection) Act have been tightened, a measure which I support. However, many people, for example, the Teachers Federation, are complaining and are unhappy about the application by teachers of these tough laws. Teachers can no longer cane a child.

Teachers are arguing that, in those situations involving parents and children, they are at a serious disadvantage. Some children are setting up or falsely accusing teachers, which can result in teachers finding themselves in serious trouble. The Children (Care and Protection) Act 1987, which was amended in 1997, certainly tightened up these provisions in line with the Government's policy of providing maximum protection for children. It would be unfortunate if someone said, "This bill has been defeated so parents can physically abuse their children. The Parliament has not carried out its duty." "Abuse" is defined in the Children (Care and Protection) Act 1987 as follows:

> Abuse in relation to a child means:
>
> (a) assault (including sexually assault) the child, or
>
> (b) ill-treat the child, or
>
> (c) expose or subject the child to behaviour that psychologically harms the child.

I am sure that even the Hon. A. G. Corbett would have thought that that provision was adequate. Section 10 of the Act, which is entitled "Children in need of care", states:

> (1) For the purposes of this Act, a child is in need of care if:
>
> (a) adequate provision is not being made, or is likely not to be made, for the child's care,
>
> (b) the child is being, or is likely to be, abused.

Children can be removed from parents who fall into that category. I mentioned earlier the provision in section 22, which is entitled "Notification of child abuse". That provision, which makes reference to children attending school or a child care centre, states:

> (1) Any person who forms the belief upon reasonable grounds that a child who is under the age of 16 years:
>
> (a) as being, or is in danger of being, abused, or
>
> (b) is a child in need of care,
>
> may cause the Director-General to be notified of that belief and the grounds therefor, either orally or in writing.

That is almost a form of mandatory reporting. The Act refers also to the provisions applying to medical practitioners and to those involved in other professions. They are all required to comply with those requirements. If we defeat this bill today we are not failing to carry out our duties. Section 55 of the Act states:

> Children should be protected against all forms of neglect, cruelty and exploitation.

That provision is in the law. Section 55 (f) states:

> responsibility for the welfare of children belongs primarily to their parents, but if not fulfilled devolves upon the community.

Under the law parents have a responsibility. If they do not carry out their responsibilities the State might have to intervene for the benefit of the child. Child protection laws have been included in the Ombudsman Act. Child abuse is now dealt with in that Act, which states:

> child abuse means:
>
> (a) assault, (including sexual assault) of a child, or
>
> (b) ill-treatment or neglect of a child, or
>
> (c) exposing or subjecting a child to behaviour that psychologically harms the child.

There are many provisions in the Crimes Act which cover physical and sexual abuse. Severe penalties are imposed for that type of abuse. Those penalties are increased if the abuse involves young children. No vacuum will be created if this legislation is not passed. The Hon. A. G. Corbett, in his second reading speech, referred to the situation in other countries. He referred to the Scottish Law Commission and to the laws being applied in Scotland. I assume that the honourable member is advocating that we should be going in the same direction. An article in the *Sydney Mail* of 7 May stated:

> Mr Flynn was arrested on Christmas Eve 1998 after he smacked his eight-year-old daughter Francesca in a dentist's waiting room when she refused to go in for treatment.
>
> She had suffered toothache for several days but did not want to see a dentist.
>
> Mr Flynn smacked her bottom after she flew into a tantrum.
>
> Staff at the surgery called the police and Mr Flynn was banned from living with his family for two weeks.
>
> He was charged with assaulting Francesca and appeared at Hamilton Sheriff Court in May last year, and was found guilty. He received no punishment but a conviction was recorded.
>
> He was then called before a disciplinary panel to answer the allegation he had been "infamous in a professional respect".
>
> The teaching council's decision to strike him off on the grounds that he was unfit to teach ...

Overnight a parent who happened to be a teacher faced criminal charges in court and lost his job because he smacked his child on the bottom. That is in Scotland. If members of this House want to leave themselves open to that situation they can, but I would not be party to that in any way at all. In his secondary speech the Hon. A. G. Corbett quoted in a supportive way some recommendations from the English Department of Health. They included "the importance of encouraging non-physical methods of discipline when bringing up children". The point I am making is that there is always this emphasis by the Hon. A. G. Corbett on prohibiting smacking, full stop. If the honourable member was honest with the House he would say that if he had his way he would prohibit smacking with an open hand, but he is realistic enough to know that that prohibition would never pass through this House. So he has watered down his bill until we have this version. That is his intention, that is what he would like to see happen.

All of us are opposed to the matters that were raised in recent days, such as the shaking of children. This bill does not deal with those issues, but some people may think that if we do not pass the bill they can do those things. These things are prohibited by this bill: hitting with excessive force, biting, shaking, kicking, punching, burning, pulling, twisting, shoving, throwing, physical punishment of children, and any punishment in which physical force is intended to cause pain or discomfort. I am glad those things are already covered. However, by not supporting the bill members are not saying that parents can do what they like in anger and cause excessive abuse to their children. Unfortunately, during his speeches, the Hon. R. S. L. Jones often vilifies various groups in this community. He is so anxious to prevent vilification of some minority groups—

The Hon. D. J. Gay: Not all the time, but quite often.

Reverend the Hon. F. J. NILE: Quite often. In this case he vilified what he called fundamentalist Christians. Fundamentalist Christians are orthodox Christians; that is all. They believe in Christ, they believe in God, they believe in the Bible, and they are fair dinkum Christians. But that word is used now when people want to knock somebody. The Hon. R. S. L. Jones should apologise for the allegations he made in this House earlier. My staff were able to dig out a book that is widely used among evangelical Christians. Published for a few years now, it is called *Growing Kids God's Way* and shows the practical side of biblical truth. The book makes quite clear-cut statements about chastisement and refers to the statement that people have used before that if one does not use the rod a certain situation occurs. It is as though people think Christian parents get a great big rod and belt their children over the head with it. The book explains that the rod is not a five-pound branch but an offshoot of a bush. The book advises Christian parents:

> Parents should not chastise their children with anything stiff and unbending.

It even criticises the wooden spoon:

> A wooden spoon could possibly break fingers that get in the way, cause vertebral damage if struck too high, or damage skin tissue. Nor should we chastise with an instrument that is too flexible, such as a father's belt, a wire, or any whip-like object.

This is the evangelical or Christian instruction to parents. This publication makes a distinction between cultural spanking and biblical chastisement. "Chastisement" is a term used in a biblical sense and it is used in this publication. Chastisement is the most intense and humbling form of corrective discipline. The publication makes these important distinctions:

CULTURAL SPANKING	is something parents do to a child.
BIBLICAL CHASTISEMENT	is something parents do for a child.
CULTURAL SPANKING	is a reaction activated by frustration.
BIBLICAL CHASTISEMENT	is a response activated by rebellion.
CULTURAL SPANKING	is a punishment of last resort.
BIBLICAL CHASTISEMENT	is not an act of punishment but of love.
CULTURAL SPANKING	attempts to change outward behaviour.
BIBLICAL CHASTISEMENT	is used to change inward attitudes.
CULTURAL SPANKING	is used with the intent to punish behaviour.
BIBLICAL CHASTISEMENT	is used with the intent to amend behaviour.
CULTURAL SPANKING	is performed throughout a child's life.
BIBLICAL CHASTISEMENT	is nearly completed by the age of five.
CULTURAL SPANKING	frustrates the child.
BIBLICAL CHASTISEMENT	clears a child's guilty conscience.
CULTURAL SPANKING	has no longterm positive effect.
BIBLICAL CHASTISEMENT	moulds lifelong character.
CULTURAL SPANKING	is used by most Christians.
BIBLICAL CHASTISEMENT	is rarely used by anyone.

The point the author is making is that many parents are affected by the society in which they live but that there is justification, from a Christian perspective, for biblical chastisement. They are the characteristics of biblical chastisement, and they are what the Christian Democratic Party supports. Not child abuse, not sexual abuse, but, when it is necessary—and hopefully it is never necessary—biblical chastisement. Hopefully the child will never need a smack of any kind; it should always be the last resort. That is what we try to practise and I am sure the majority of parents who really love their children practise that as well, but they also know there may be times

when they have to indicate that certain behaviour is not acceptable and therefore do the child some good. That is of benefit to the child. Therefore, we oppose the bill. We understand the intention of the mover, but we believe that there is sufficient legislation covering these matters and that the bill is not necessary. If it were passed, it would certainly frustrate, frighten and confuse the parents of the State.

Ms LEE RHIANNON [4.26 p.m.]: The Greens very strongly support this bill, as my colleague the Hon. I. Cohen said. We warmly congratulate the Hon. A. G. Corbett and his staff on their extensive and most important work on this bill. It is the culmination of years of dedicated work and, if passed, it will certainly improve the quality of life not just of children but of all people. It is a most reasonable piece of legislation. Society needs to clarify its position on this issue, and it is the responsibility of this House, this Parliament, to work on the issue and come to a decision. Unfortunately it is not surprising that we are not having a meaningful debate.

Nobody would agree with using excessive punishment or violence against children. I am sure honourable members would be unanimous on that. So why do we have the extraordinary position that the Labor Government and the Coalition will not support the bill? It really is extraordinary. The Hon. J. P. Hannaford said he was leaving it up to his colleagues in the Coalition to explain their position. We have not heard any explanation, and that is extraordinary. Equally, there has been nothing from the Government side yet as to why we are in this position. The Hon. J. P. Hannaford said it was wishy-washy and gutless—his words—but why is it like that?

The Hon. I. M. Macdonald: Read between the lines.

Ms LEE RHIANNON: Not just between the lines, it is sticking right out there. At the moment a race is going on between the major parties for the socially conservative vote, and both parties are doctoring their policies to try to pick up that socially conservative vote. It is most unpleasant when it is literally the wellbeing of children that is compromised because of this opportunistic way of behaving. On 5 May the Premier repeated the promise the Government made to parents, when it banned caning in schools, that it would not impose laws that impinged on discipline in the family home. I understand that follows the commitment the Minister for Education and Training gave on this issue. That the Minister for Education and Training is the stumbling block in Cabinet is a most unpleasant thought; and that the Premier is acquiescing with the Minister does not give anyone too much confidence in how decisions are made in Cabinet. The issues should be debated in Cabinet and then the Government should come forward with policies and legislation that will benefit all people and, in this case, most definitely children.

I can understand what motivates Coalition members. They have seen the collapse of One Nation and it must be a temptation for them not to jeopardise their chances of winning back One Nation's 7 per cent of the vote. It must be disturbing for Coalition members who support this bill to have to live with the fact that there was limited discussion in the Coalition caucus on this bill. At one stage they were told that they would support the bill and then a short time later they were told that they would not. There was virtually no time for any discussion of the matter.

The Hon. J. F. Ryan and the Hon. J. P. Hannaford made useful, informative and honest contributions to this debate. I agree with the comments made by the Hon. J. P. Hannaford, and it was a pleasure to listen to his passionate speech. It reminded me of a problem with the Coalition: that the present shadow Attorney General is a joke. I was wondering whether the Hon. J. P. Hannaford does not speak often because the comparison becomes embarrassing.

No Australian Labor Party members spoke in this debate. Perhaps there will be a rush through the door of Labor members wanting to tell us their position on the bill. We know Labor's track record on child protection and the unwillingness of Labor members to speak out against their caucus. Let us remember that Labor members can speak against a caucus decision and not be expelled from the party. I respect that they cannot cross the floor, but they can tell us what they are thinking. They tell us in private what they think, but they will not repeat it in the House. The situation is unpleasant.

The Greens believe that the Parliament should be giving directions on this important issue. We should be able to debate constructively in Committee the bill introduced by the Hon. A. G. Corbett and, in turn, give leadership to the people of New South Wales. Let us remember who the Coalition and the Government are lining up with on this issue. The comments made by the Hon. M. I. Jones and Reverend the Hon. F. J. Nile in the media in the lead-up to this debate show that they are either innocently misinformed or deliberately misconstruing what is clearly set out in the bill.

The Hon. M. I. Jones made some extraordinary statements. He said that a child will be able to report parents for the smallest of disciplinary smacks, and that the police will be compelled to prosecute. That is total rubbish. He said that the traditional family unit is under attack as never before. Rubbish! He said that devices preventing families from determining how to manage their own affairs are now in place and that existing laws are punitive to child abusers. What does he expect? That is why laws are there. If parents abuse their children, action must be taken. The honourable member said that this type of social engineering is simply not required. That inflammatory rubbish simply avoids the real issue: how to deal with important legislation to clarify the rights of families on this issue.

Reverend the Hon. F. J. Nile said that the bill will set children against their parents and that New South Wales will become the ultimate police state by turning younger children into informants against their parents. To say that it is a police state is scraping the bottom of the barrel. We are simply trying to put in place guidelines on how parents should deal with their children. Let us clarify the legal situation, firstly, in terms of the police. At present children can go to the police at any time, as anyone can. But families are strong units, and my experience is that children go to the police only when there is extreme abuse and they are left with no other recourse. Even then they rarely go to the police. So the honourable member's statements are miles away from reality.

As the Hon. M. I. Jones and Reverend the Hon. F. J. Nile are so out of touch, it is worth putting on record the powers of the Department of Community Services with regard to children and their relationships with their parents. The bill's provisions would come into effect only when a person charged with assaulting a child appears before a court and attempts to defend the charge by using the defence of lawful direction. So the processes undertaken by the Police Service, the Department of Community Services and the Office of the Director of Public Prosecutions prior to a judicial hearing will not be affected by this bill. The process is laid down in the interagency guidelines for child protection intervention, which have been adopted by all Government departments and agencies involved in child protection. The situation is clear. I hope that the Hon. M. I. Jones and Reverend the Hon. F. J. Nile will consider the reality under the present system, as well as what the situation will be if the bill becomes law.

I shall put on the record further information that I hope honourable members will think about as they consider their positions. In England the Office for National Statistics undertook a survey in April 1998 to gather information about people's views on the physical punishment of children. This is an omnibus national survey that is carried out monthly. A random probability sample of approximately 2,000 people were interviewed. I ask honourable members to consider the key findings of this survey: 88 per cent of respondents agreed that it is sometimes necessary to smack a naughty child while 8 per cent disagreed; 85 per cent agreed that parents should be allowed by law to smack a naughty child who is over five years old, with 9 per cent disagreeing; there were no significant differences in the views on smacking held by men and women or by parents in different age groups; and 4 per cent of respondents said that parents should be allowed by law to use a cane, stick or similar implement to punish a naughty child who is over five years old, while 7 per cent said that parents should be allowed by law to use a cane to hit a child who is over seven years old.

More than 90 per cent of respondents said that parents should be allowed by law to ground or keep a naughty child at home as punishment; 16 per cent said that parents should be allowed by law to punish children by depriving them of a meal or part of a meal, and 2 per cent to 3 per cent said that parents should be allowed by law to shake or smack children on the head. Some 60 per cent considered physical punishment that leaves no mark at all to be reasonable from the options presented, while 36 per cent would not specify any level of punishment as reasonable; and nearly all respondents considered punishment that leaves a red mark or bruising to be unreasonable—96 per cent and more than 99 per cent respectively for those two aspects. The survey underlines the need to provide society with clear guidelines on this important issue.

This bill is reasonable and well argued, and provides real measures so that the rights of parents and children are clear. In summary, the bill would make unlawful certain excessive punishments of children using a stick, belt or other object applied to the head or neck if there was harm for more than a short period. This bill is a reasonable and balanced measure to protect the rights of children and to make clear the responsibilities of families. It has received widespread support from many organisations. Indeed, other speakers have detailed organisations with high standing in society that have indicated solid support for the work of the Hon. A. G. Corbett in his bill.

The Hon. J. F. Ryan: The Children's Hospital is one organisation.

Ms LEE RHIANNON: The Hon. J. F. Ryan reminds me that the Children's Hospital is one organisation that supports the bill. It is staggering how the Government and the Opposition can turn their backs

on the bill. Hopefully we will be enlightened. The bill provides children with the right to grow up feeling that they are secure and respected citizens. The moves have been adopted by many progressive nations. Indeed, the important United Nations Convention on the Rights of the Child would allow New South Wales to complywith that convention. I say to those who have expressed concern about the bill that it is a moderate measure. Some have inflamed the argument and referred to accusations ranging from policing to social engineering. The bill is a well-determined proposition that provides us with the opportunity to perhaps give people answers.

I should like to address comments made by the Hon. R. S. L. Jones—against whom attacks have been made—when he spoke about discipline without violence. I believe that the majority of families in our society discipline their children without violence. Those children are well-adjusted members of our society—unlike a minority of people who did not experience a well-measured upbringing because their parents used violence against them. Their lives would have been enhanced by a measure such as this.

It is extraordinary that at times over the years the Labor Government seems to have come close to supporting the bill but has backed off. The Government's contribution to the debate has been sparse, and as we are still waiting to hear from the horse's mouth whether it is necessary to explore other reasons why the Government has not supported the bill. Is it just that the Government is backing off for the tabloids and talkback radio? We used to know how dependent the Labor Party was on the Democrat Labor Party [DLP]. I now hear the term around the place the "TLP"—the *Telegraph* Labor Party. On so many issues it certainly sums them up.

The Hon. J. R. Johnson: The Labor Party?

Ms LEE RHIANNON: I can imagine this is very painful for the Hon. J. R. Johnson, because the DLP was a vehicle that kept him and his mates in power for decades and decades. He would not have been able to sit on the red leather benches of this Chamber for so long if he had not had the support of the DLP in various ways. I know that the DLP also delivered for the Coalition in various ways, but it certainly delivered for the Labor Party in this State. There is no evidence whatsoever that this bill would generate community backlash.

On matters of social justice and human rights, governments need to show leadership. Over the last century leaders who have had the guts to stand up have taken the lead on issues such as slavery and, in our own country, multiculturalism and, although it has been only limited, even on rights for Aboriginal people. I join those who support this bill in appealing to members of the Government and the Coalition that in their caucus meetings next week they move to reopen the debate within their caucuses. There is still a chance for the bill to be passed:it is a reasonable and much-needed measure.I urge the Government and the Coalition to propose amendments to be considered in Committee. I cannot see why the Government and the Coalition are not even willing to do that.

The Hon. D. F. Moppett: There might be some legitimacy in your revealing your own party's processes, but why don't you stop speculating about other parties that you know nothing about?

Ms LEE RHIANNON: We do know that you have a caucus. Maybe you are not even willing to go to your own caucus meetings and discuss things. The Greens call on the Government and the Opposition to show courage and support for this bill, which deals with the important issues of social justice and human rights. The Greens strongly support the measure. My colleague the Hon. I Cohen and I are very proud to have had an association with the Hon. A. G. Corbett over the years we have been members of this place.

The principal reason why the Greens appeal to the major parties to consider this bill is that so much work has gone into it. It provides a means to come to grips with an issue that is very real in our society. The majority of people have children and we all need to discipline our children and find disciplinary methods that work successfully. This bill helps to give some guidance to all of us in how to deal with our children, our grandchildren, and the children of our friends. I again congratulate the Hon. A. G. Corbett. I am disappointed to hear the objections from the Coalition. The fact that the Hon. D. F. Moppett interjects but, I understand, is unwilling to speak to the bill leaves one wondering what is his attitude to the discipline of children. Why is he not willing to explain why the Opposition does not have the guts to come out on this issue—

The Hon. D. F. Moppett: Because I would like to see a vote on the bill.

Ms LEE RHIANNON: It is not just about pushing it through to the vote. The Hon. D. F. Moppett does not have the guts to express his views on the issue. At least some other members of the Opposition spoke about their position, and we respect that they cannot vote for it. But the Hon. D. F. Moppett does not even have the guts to contribute to the debate, so we are left wondering what he thinks about the discipline of children. It makes us think that his views are not very positive.

The Hon. P. J. BREEN [4.46 p.m.]: It gives me great pleasure to support the Hon. A. G. Corbett's bill, which has been around the Parliament at least as long as I have been a member here.

The Hon. D. F. Moppett: You are determined that it stays for a little bit longer.

The Hon P. J. BREEN: If it stays beyond today that will be nothing new, because it has been on the list of private members' bills ever since I have been a member of this place. I understand from the Hon. J. P. Hannaford's contribution earlier today that it has been here for several years. It is interesting to note the distinction between the current bill and the bill that was first introduced in 1997. The bills are similar but there are some distinctions, which I should like to draw to the attention of the House.

The first difference in the new bill is that it provides for the commencement of the proposed Act 12 months after the date of assent, whereas previously it was two months. Second, new section 61AA (1) has been expanded. That section now incorporates some of the factors that would be considered in determining whether the use of physical force was reasonable. The third difference in the current bill is that it adopts the recommendation of the Model Criminal Code Officers Committee to replace the term "actual bodily harm" with the word "harm". The fourth difference is that the application of trivial or inconsequential force to the head or neck or with an object to the body, while not encouraged or condoned, will not limit the defence of lawful correction. Formerly there was a blanket prohibition of force for both.

The fifth difference is that new section 61AA (4) makes it clear that the bill does not interfere with any other defence at common law available to a person charged with assault, for example misadventure or self-defence. There are certain exemptions for Aboriginal and Torres Strait Islanders with respect to the express authority provision. The term "de facto spouse" has been defined, which is in line with other legislation. The eighth distinction is that express authority by a parent of the child to a person acting as a parent to use physical force against the child is now required.

I am surprised at the level of support that the bill seems to have. Organisations as diverse as medical groups, human rights groups, the Law Society, child welfare groups and a number of other community organisations suggest that the law in this State with regard to the application of force to children needs to be addressed. New South Wales seems to be out of step with other jurisdictions and other countries. Setting limits on the punishment and discipline of children is a belated development in the law and it would be a great pity to lose this opportunity to update the State's law and introduce a statute to clarify the common law to make it clear to people in the community what the law is, as the Hon. J. P. Hannaford pointed out earlier in the debate. This State does not have *Daily Telegraph* law. The people of New South Wales do not have to rely on what the newspapers tell them about smacking their children; but they ought to be able to rely on statutes because the purpose of statute law is to codify and clarify what the law is.

My other comments on the bill will be made in the light of the remarks made earlier in this debate by the Hon. J. P. Hannaford. My association with the Hon. J. P. Hannaford extends from the time when I was a Young Liberal approximately 25 years ago. This morning I recalled those days when listening in my parliamentary office to the speech being made by the Hon. J. P. Hannaford. It seemed to me that he has not lost any of his spark or concern about social justice and the important values of small "l" liberalism. I was absolutely delighted to hear his speech and I had no hesitation in coming into this Chamber to be present while he delivered his learned remarks about the operation of law in Australia and its effect in New South Wales.

The Hon. R. S. L. Jones: He is a former Attorney General.

The Hon. P. J. BREEN: As the Hon. R. S. L. Jones points out, as a former Attorney General, the Hon. J. P. Hannaford has brought all the expertise and experience of that office to this House. I have to say that his speech was the most moving that I have heard during my short period as a member of this House. I hope that the Hon. J. P. Hannaford continues to deliver such moving addresses and to make important contributions to the affairs of this State. If not, it would be a great loss to this House.

The Hon. D. F. Moppett: The Hon. P. J. Breen would have noted the paradox that the Hon. J. P. Hannaford was arguing—that, in effect, this legislation is a licence to smack children and is not, as this bill started out to be, a prohibition against smacking children.

The Hon. P. J. BREEN: The Hon. D. F. Moppett is absolutely right and makes a very good point with which I agree. The bill ought to be interpreted as a prohibition against smacking children and that is the type of law that the people of New South Wales should have.

The Hon. D. F. Moppett: It is almost a written uproar.

The Hon. P. J. BREEN: The issue is certainly open to debate.

The Hon. D. J. Gay: It will be damned by its own publicity.

The Hon. P. J. BREEN: That is one of the critical factors. But a vital obligation of this House is to clarify the law and the meaning regarding issues involving different points of view . There are two choices: the matter can either be left to the courts and the courts can argue about what is meant, or be made clear by this Parliament. I suggest that the appropriate course is for this Parliament to create laws that make clear what is meant by legislation. The idea that there might be legislation that is unclear which allows people to argue cases, spend lots of money, waste the court's time and put other people through the heartache and tribulations of litigation is something that needs to be addressed. One of the reasons why I have constantly argued in favour of a bill of rights is to provide fundamental principles or benchmarks so that people will know what the law is.

The Hon. D. F. Moppett: Spoken like a lawyer—more business!

The Hon. P. J. BREEN: I think that the existence of a bill of rights would result in less legal business, despite what the Hon. D. F. Moppett says.

The Hon. D. F. Moppett: It has not always been the case, though, has it?

The Hon. P. J. BREEN: According to evidence given so far to the Standing Committee on Law and Justice so far, particularly by the Public Interest Advocacy Centre, a bill of rights would result in less litigation, not more.

The Hon. D. F. Moppett: That might be a self-recruiting inquiry.

The Hon. P. J. BREEN: My experience is that if people know what the law is and it is written clearly in terms that are understandable—

The Hon. D. J. Gay: What about the rules of this House? That comment does not relate to the bill that is before the House.

The Hon. P. J. BREEN: I am obliged to the Deputy Leader of the National Party.

The Hon. D. F. Moppett: Let us be honest around here for a change.

The Hon. P. J. BREEN: I am being very honest. I turn now to address the question of what is a trivial or negligible mark. I must say that when I heard the Hon. J. P. Hannaford refer to the wooden spoon treatment, it seemed to me that that would leave of the kind of mark that this bill prohibits. I wondered what the effect would be of the wooden spoon treatment when, for example, applied to a black person. If there is no red mark, does that make the punishment less trivial or more trivial? If this legislation contained a wooden spoon provision, the bill would have to spell out in clear terms—certainly in terms that are clearer than the present terms in the bill—the type of punishment that is intended. I think the word "reasonable" is one that has been alluded to and is one that gives lawyers, as the Hon. D. F. Moppett suggests, the opportunity to canvass issues at great expense to their clients. Therefore, any assistance that the Parliament can provide to clarify what "reasonable" means is a development that I would suggest is very positive and ought to be undertaken.

The Hon. J. F. Ryan: And then there is the whole problem of mens rea.

The Hon. P. J. BREEN: That is a different problem altogether. I do not want to become involved in a discussion on mens rea. The bill states in part:

> The application of physical force is not reasonable if:
>
> (c) the force is applied to any part of the body of the child in such a way as to cause, or threaten to cause, harm to the child that lasts for more than a short period.

That provision most certainly needs to be clarified. A "short period" for one person obviously could be quite different for somebody else. In the Hon. A. G. Corbett's original second reading speech, he mentioned the issue of physical force and whether the use of force constitutes an assault. He stated:

> … the common law currently permits such an application of force provided that it is done to correct the child and is performed in a manner that is reasonable considering the circumstances.

He did not make any attempt to explain what "reasonable" means. That is a serious flaw in the bill. For the benefit of the House and the courts if there is any argument about it, there are a number of ways of determining what "reasonable" means. The intention of the bill is to limit the way in which people apply force so that children do not suffer punishment and so that provisions for the protection of children that have been established under international and local law are not contravened. Injuries caused to children as a result of punishment are serious. They have great consequences for the long-term health of children. Clearly, this House has a primary obligation to make sure that the rights of the child are protected. I understand that that is the purpose of the bill.

At an earlier stage of the debate, a query arose in respect of the contribution made by the Hon. J. P. Hannaford which made me wonder whether or not there is consensus in the House and some possibility of resolving the various issues that seem to be in contention. I refer again to the most important provision, new section 61AA (2):

> The application of physical force is not reasonable if:
>
> (a) the force is applied by the use of a stick, belt or other object ...

It would be better to amend that provision to refer to the effect on the child rather than the nature of the instrument used by the parent or the parent's agent. The interests of the child ought to be paramount not just in the overall scheme of the legislation but also in the actual wording of the various provisions and in their operation. I would suggest that any amendment or redrafting of the provision that relates to the application of force and the use of objects ought to focus on the impact and effect of that force, and the use of those objects on the child.

Clearly what is trivial or negligible could well be relative, depending upon the child, and as I mentioned earlier, the colour of their skin, for example. Members of the medical profession use benchmarks that could be employed to determine if a particular provision or application of force has a certain effect on the child and whether it causes physical injury, emotional disturbance or some other difficulty that needs to be included.

Pursuant to sessional orders business interrupted. The House continued to sit.

SPECIAL ADJOURNMENT

The Hon. I. M. MACDONALD (Parliamentary Secretary) [5.01 p.m.]: I move:

> That this House at its rising today do adjourn until Tuesday 30 May at 2.30 p.m.

LEGAL PROFESSION AMENDMENT (MORTGAGE PRACTICES) BILL

Ministerial Statement

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [5.01 p.m.]: I wish to bring to the attention of the House a factual error which occurred in the second reading speech on the Legal Profession Amendment (Mortgage Practices) Bill on Wednesday 3 May. Honourable members will recall that in the course of the speech, I indicated that mortgage investment schemes where the combined total principle of loans outstanding, and unregistered related schemes, exceeds $5 million, would be supervised by the Australian Investments and Securities Commission [ASIC], and that the Law Society would be responsible only for schemes with a total investment pool which is less than $5 million. The second reading debate on the bill proceeded on the same basis.

The statements I made were based on the advice of my department, and I have to inform the House that this advice was incorrect. In fact, by a Class Order dated 23 November 1999, ASIC ruled that schemes having a total investment pool of less than $7.5 million would be exempt from the relevant provisions of the Corporations Law. I can inform the House that ASIC Policy Statement 144, released on 20 July 1999, had proposed that schemes with a total investment pool of more than $5 million, would have to comply with the requirements of the Corporations Law. However, ASIC changed its position and decided to increase the threshold before it issued the class order. I wish to reassure honourable members that this error does not go to the content of the bill which was then before the House.

The bill requires any solicitor who negotiates the making of, or acts in respect of, a regulated mortgage forming part of a managed investment scheme with no more than 20 members which is exempt from the Corporations Law to comply with the supervision of the Law Society. The bill does not deal with the ambit of that exemption, which is a matter for ASIC, not the State Government. I wish to reiterate to the House that the bill contains stringent requirements for solicitors who conduct mortgage investment schemes. Solicitors must have fidelity insurance and advise clients of what the policy says. If a solicitor does not have that insurance, the client can claim against the Fidelity Fund in the event of loss. The regulations will ensure that schemes are very closely monitored.

I note that the Hon. P. J. Breen expressed concern that the Law Society proposed to submit to me for approval a policy of fidelity insurance that included a proposal to limit any one claim to $2.5 million, and that if the ceiling were to be $7.5 million, rather than $5 million, that limit of $2.5 million would be quite unjust. Let me assure honourable members that I share the Hon. P. J. Breen's concern. Honourable members will be aware that that bill makes it abundantly clear that an insurer and the terms of the policy must be approved by the Attorney General in writing. The order made by the Attorney can impose conditions. If I do not approve a policy of fidelity insurance, the provisions would be inoperative. As far as I and my department are aware, the Law Society has not approached me with any proposals for fidelity insurance. Indeed, on 23 May, before this bill was debated, my department contacted the Law Society for advice on this very issue..In a facsimile of the same day, the Law Society advised my department that "the Law Society is currently considering a number of proposals from insurers" and that, when they were refined, the society would discuss them with me.

At no point have I or my department discussed any specific limitations with the Law Society. However, let me assure honourable members that I am well aware of the need to protect consumers and that I am of the view that without adequate and appropriate insurance arrangements, the central goal of the bill, protecting clients, will be compromised. May I say, finally, that as a matter of courtesy I advised the shadow Attorney General of this statement some time ago and I gave him a copy of the text of it. I also advised the Leader of the Opposition in this House that I proposed to make this statement this evening.

The Hon. J. M. SAMIOS [5.06 p.m.]: The Opposition is grateful to the Attorney General for his courtesy in giving notice that he would rectify a factual error that appeared in his second reading speech on the Legal Profession Amendment (Mortgage Practices) Bill. It is our understanding that the change in the amount from $5 million to $7.5 million is not a substantial alteration. The Opposition has no objection.

OCCUPATIONAL HEALTH AND SAFETY BILL

Bill introduced and read a first time.

Second Reading

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [5.07 p.m.]: I move:

That this bill be now read a second time.

The Occupational Health and Safety Bill is a significant step in this Government's program of workplace safety reform. It is a modernisation of the pioneering legislation of 1983. It will provide the framework for workplace safety in the new technological era. The path to modernisation was commenced in 1996. A tripartite panel of review, chaired by Professor Ron McCallum, was asked to conduct an independent review of the Occupational Health and Safety Act. The panel's report and recommendations were presented to the Legislative Council Standing Committee on Law and Justice for its historic inquiry into workplace safety. The Committee published an interim report in December 1997 and its final report in November 1998. In those reports, the committee provided a comprehensive package of recommendations, totalling 61, as a blueprint for modernisation. The issues of workplace health and safety affect almost every citizen, as a worker, an employer or a visitor to a place of work. Workplace injuries result in significant social and economic costs to families, businesses and the whole community.

The committee recognised that one of the keys to addressing health and safety problems is to have a sound and accessible legislative base so that all parties can easily understand their responsibilities and take appropriate action to prevent injuries. It has been important not to rush the review and development processes but to ensure the maximum opportunity for participation by employers, employees, the community and their representatives, and to encourage their commitment to the outcomes. The panel and the committee invited public comment and undertook site visits during their deliberations. The Occupational Health and Safety Council of New South Wales which is comprised of employee and employer representatives, has had input into the development of this bill and other initiatives which I will mention.

The bill has been made available in its draft form to that council and to the Workers Compensation Advisory Council for comment. Separate briefings on matters covered by the bill have been held with representatives of small business, employer groups and the Labor Council. All matters raised have been considered carefully and included to the extent possible.

I am pleased to report that a number of recommendations of the committee have already been implemented. Before turning to the legislative recommendations in the bill, I briefly mention some of the more significant. First, there are those recommendations that have been implemented primarily by WorkCover New South Wales. A major awareness campaign was commenced in 1998 and is continuing. The areas of current focus include eliminating risk in the workplace, responsibilities for workplace safety and injury management. Industry reference groups have been established and guidance material has been prepared for specific industries and on management responsibilities. Tools for the systematic management of occupational health and safety in small, medium and large enterprises have been developed and trialled. These tools include a general assessment tool that can be used to measure the occupational health and safety performance of organisations.

Second, there are those recommendations that have been implemented in a co-operative effort with others. Best practice case studies have been produced and industry consultative and mentoring forums set up to facilitate best practice outcomes. Teaching material has been developed for use in schools, TAFE colleges and universities. Procedures are in place to include occupational health and safety issues in government contracting. Reporting of occupational health and safety performance by government agencies is now a legislative requirement. International networks have been established and will be fostered for the purpose of information sharing. Of course, work will continue on these and all other recommendations that require administrative implementation.

I now turn to those recommendations of the workplace safety reports that have legislative form in the manifestation of the bill that I have presented to the House, the Occupational Health and Safety Bill 2000. A major theme covered by a number of recommendations is the need to overhaul the Occupational Health and Safety Act 1983. This has been achieved with the development of an entirely modernised bill. It is now in plain English and has been reorganised in a coherent manner that will facilitate comprehension and access. However, there has been no substantive change to the meaning except for those matters to which I will refer today.

The objects of the legislation have been reviewed. Additional objects have been included that reflect the principles of prevention through risk management and equity, participation, and the acceptance of responsibility through consultation and community awareness. The duty of care provisions prescribe those groups of persons with obligations for workplace safety, including employers, employees and the self-employed. These provisions have been simplified and clarified. Other relevant provisions, such as the liability of managers of corporations and the defences available in a prosecution, have been located more conveniently with the duties. This is complemented by the WorkCover Authority's compliance and prosecutions policy, which is the fulfilment of another recommendation. It stresses that workplace health and safety is the responsibility of all groups and ensures a balanced application of the provisions.

A significant new duty has been included in the bill: the duty to consult. In future, employers will be required to consult with their employees to enable those employees to contribute to decisions that affect their health, safety and welfare. Experience has demonstrated that employees can make valuable contributions to the design and implementation of changes to systems of work and the workplace environment generally, especially in a risk management context. This inclusion fulfils a fundamental requirement of the International Labour Organisation's convention No. 155 on occupational health and safety, to which Australia is a signatory.

The bill is intentionally flexible in that it provides a range of consultation mechanisms. Employers and employees will be able to tailor arrangements to best suit their organisation. The mechanisms provided for are occupational health and safety committees, occupational health and safety representatives and other agreed consultation arrangements. Those mechanisms may be put in place in an organisation at the request of employees or on the initiative of the employer. The only limitation is that an employer with fewer than 20 employees is not required to have an occupational health and safety committee, though he or she may choose to do so. At this time, the functions and powers of occupational health and safety committees and representatives are drawn from the provisions covering those committees in the 1983 Act.

Those affected by this new initiative will naturally want to contribute to its development in more detail. For this reason, public consultation will be undertaken in the preparation of a supporting regulation regarding consultation. The consultation provisions that have been included in the bill reflect the broad thrust of the

workplace safety reports' recommendations, but they are not identical. In particular, the recommendations concerning the powers to issue improvement notices and to stop work were not supported by the Occupational Health and Safety Council. Also the council did not support the recommendation that would require an occupational health and safety officer to be appointed by the employer.

The council was concerned that, if implemented, this concept could lead to the devolution of employer obligations to a lower level of management, and consequentially reduce the importance of occupational health and safety in the organisation. Other recommendations of the reports relating to consultation will be relevant to the implementation of this initiative. The bill contains various enforcement initiatives that are designed to benefit occupational health and safety in the community generally. Non-monetary penalties in the form of publicity and occupational health and safety project orders will be available in the sentencing of offenders. Furthermore, all courts will be able to take account of victim impact statements in considering sentences or penalties. These initiatives are in addition to those on sentencing guidelines passed recently by this Parliament.

I anticipate that the use of sentencing guidelines will provide a sounder judicial alternative to graduated penalties, which was a recommendation of the workplace safety reports. In keeping with the recommendations, there has been no change to on-the-spot fines or the availability of the equivalent of former section 556A of the Crimes Act or new section 10 of the current sentencing legislation. The final initiatives in the bill arising from the recommendations are the more rigorous procedures for public input to the development of industry codes of practice and for public accountability in assessing the legislation's continuing relevance. The new consultation provisions applying to industry codes of practice implement the spirit of the reports' recommendations in a manner that will not detract from the absolute duties within the legislation to provide safe and healthy workplaces nor unduly delay their preparation.

It is an important part of this legislation, pursuant to section 15 of the 1983 Act, that the obligation to provide a safe workplace is absolute. However, it is qualified by the defence available to employers under section 53 of the Act—now clause 28 of the bill—that it may not be reasonably practicable to do so. That is the balance contained in the innovatory 1983 model based on the English Robens model of occupational health and safety that was enacted—I think courageously and correctly—by the Government in 1983. The bill contains two additional provisions clarifying government liability for occupational health and safety. These arose in the context of proceedings taken against government agencies rather than from workplace safety report recommendations. The important point is that the amendments ensure that prosecutions can be undertaken when they are warranted.

One amendment clarifies that the responsible agency is entitled to act for the Crown in any enforcement proceedings. That agency will be the agency for the determination and payment of any penalty. The second amendment enables proceedings to be taken against the successor of a government corporation when the successor is also a government corporation. This will ensure that a change in the corporate make-up does not interfere with the protection of employees via appropriate prosecutions. By way of background, in an innovatory way, the 1983 legislation expressly bound the Crown and its agencies to give effect to occupational health and safety standards. That was an important reform at the time and we are extending and refining that provision in this bill.

Before I conclude I want to make a few comments on the recommendations of the workplace safety reports that are in the early stages of their implementation or are still being considered for implementation. A number of the recommendations concerned with the risk management approach to workplace health and safety are being developed for inclusion in an occupational health and safety regulation. This regulation is an ambitious project that will replace almost 40 separate and disparate legislative instruments, to bring them together in a cohesive, single and, hopefully, simple whole. A period of public comment on the draft regulation occurred from October 1999 to March 2000. The input from that consultation is currently being used to improve the form and content of the regulation. A revised draft regulation is anticipated to be available for further comment later this year.

A range of the transitional provisions in the bill is directed at ensuring that the existing provisions are saved until the commencement of a new consolidated regulation. A final group of recommendations is still under consideration, particularly several that have a potential impact on other related legislation. They will be worked through with relevant stakeholders. For example, there are recommendations that have the potential to impact on workers compensation premiums. The workplace safety reports recommended that there be a closer link between premiums and the implementation of best practice workplace safety. As the whole area of workers compensation is in the process of review and reform, premium levels are more appropriately dealt with under

that review. Another example is the issue of conscientious objection to the powers of trade union officials in respect of occupational health and safety matters. The recommendations on this matter form part of the wider industrial relations landscape.

In closing I note that there is general agreement that the occupational health and safety record in New South Wales could be improved. Each and every workplace injury or illness results in personal distress for the victim and the family and can have a damaging effect on business performance. This Occupational Health and Safety Bill is evidence of the Government's continuing commitment to workplace safety. The Government is providing the framework. It is strategically targeting its facilitator and advisory roles. It is strengthening its inspectorial and enforcement operations.

At the same time, it would be churlish and untoward of me not to recognise the valuable input of honourable members of the committee of this House, who worked through this legislation and essentially came up with the model that I am now propounding. I thank those members for their efforts and for their bipartisan and disinterested approach to the matter. This bill, if it does pass this House, will be testament to their efforts. They are entitled to be proud of the efforts that they have made to improve workplace safety in New South Wales. I would invite all groups that have been involved in the bill's development to commit to its implementation. To a great extent, it is that commitment that will provide the much-needed improvement to our workplace safety laws. I commend the bill to the House.

Debate adjourned on motion by the Hon. D. F. Moppett.

ADJOURNMENT

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [5.23 p.m.]: I move:

That this House do now adjourn.

ACACIA ROAD UPGRADE

The Hon. J. F. RYAN [5.23 p.m.]: I draw attention to some answers given by the Minister for Roads that were included in *Questions and Notice* on Tuesday. Those answers were in response to questions that I asked with regard to a very controversial piece of land located on Acacia Road, Sutherland. Essentially, I asked the Minister whether the land on the corner of Acacia Road and the Princes Highway at Sutherland, which had been set aside for national highway improvements, had been sold by the Roads and Traffic Authority, and I sought details about the sale of the land, if that had occurred. Secondly I asked when construction work on a right-hand turn at the Acacia Road-Princes Highway intersection at Sutherland, which it had been promised during the last State election would commence in February 2000, would actually commence. I regret that I must tell the House that the answers that the Minister gave were most interesting, but were somewhat embarrassing to the two Labor members whose seats are in proximity to this area of land.

I need to explain to the House that the two Labor members, in fact many Labor members in the Sutherland area, have largely characterised themselves as being anti medium-density development and anti high-density development in the Sutherland area. They have chanted that mantra and held special public meetings and so on, yet they seem to conveniently ignore that the fact that the ALP is not only championing the cause of high-density development at that intersection by selling public land to facilitate it but, I discovered in the answer to a question, is actually underwriting it to make sure that there is no risk to any developer who might propose to create a high-density development at Acacia Road.

The land in question belongs to the Roads and Traffic Authority and, as my questions suggest, and as has been confirmed by the Minister's answers, is available for an expansion of the road to deal with traffic congestion that occurs at a critical part of the Princes Highway in Sutherland. One need only drive around southern Sydney to realise that traffic congestion is a very live subject on the Princes Highway and in other places. The idea that there is surplus land in this area would come, as the Minister suggested in his answer, as news to the people who live in the Sutherland shire. I note from the Minister's answer that the Government will not fulfil its promise, which had been mooted through various Labor members in the local media, to upgrade Acacia Road, or at least that that is not imminent. The Minister has said that the upgrade of Acacia Road, which is part of the Carr Labor Government's extensive Sutherland shire road upgrade program, was not promised for February 2000.

I have instances, chapter and verse, of Carl Scully, the Minister for Roads, saying exactly the opposite in the Sutherland shire during the last election campaign. The Minister's answer indicates that the upgrade will

cost $5 million, and I note as an aside that this project is not mentioned in this year's capital works statement which accompanied the budget. We will be waiting a long time for the upgrade. I am concerned about the Minister's answer in respect of the sale of the land. He said that surplus land, in conjunction with land owned by eight private vendors, was offered for sale by public tender following rezoning and is subject to an option to purchase. The option price is conditional upon development approval. The developer will not be taking any risk with this land. The Government will push the current development proposal, which is before Sutherland Shire Council and is supported by the Australian Labor Party [ALP] members on that council. They will be pushing to make sure that the development proposal is approved before any private developer needs to take a risk.

The game is up: The ALP officially supports, underwrites and endorses high-density development in the Sutherland shire. I understand that the development proposed for this section of land is not medium-density townhouses, but a number of multistorey buildings. I do not have the details at hand at the moment. The Opposition is concerned that the ALP is representing itself in one place as being against high-density development and then is not only supporting it in the council but selling public land to make the development available. In the answer to the question it has revealed that it is underwriting and rezoning the land. The ALP is up to its throat in support for high-density development in the Sutherland shire and from this day on will be unable to represent itself in any other way.

OLYMPIC GAMES HELLENIC TRIBUTE

The Hon. J. HATZISTERGOS [5.28 p.m.]: I draw the attention of the House to an event I attended last Sunday at the blessing of the site which will host the Hellenic tribute to the Olympic Games. Honourable members would be aware that the Olympic Co-ordination Authority provided an amount of $7.5 million for art projects to grace various Olympic venues. Nine of the 12 projects in that program are to be located at Homebush Bay. Only one project reflects the ancient origins of the modern Olympic Games, and that is the project which was blessed last Sunday. The project has been sponsored by the community and the ambitious fundraising venture of $435,000 is nearly complete. The monument will be erected 300 metres from the Olympic Stadium and 100 metres from the Olympic railway station.

The sculptor of the tribute, a person by the name of Robert Owen—a well-known Australian sculptor—was also responsible for creating a sculpture at the Olympic Games in Seoul. This monument has been able to be completed because of the work carried out by the Australian Hellenic Education Progressive Association [AHEPA], which has chosen Sydney as the location for the second of a trilogy of major public art projects in Olympic cities to celebrate the Greek origins of the Games. Hellenic Tribute Inc. is funding the public art, which will be located at the site currently known as Stockroute Park. AHEPA USA, which funded a comparable project in Atlanta, intends to complete this trilogy in Athens by constructing a similar tribute at the Olympic Games site in that city.

The work which it is envisaged will be erected at this site is known as Discobolus. It is named after and portrays a discus thrower known in ancient Greece as Discobolus, a symbol of the Olympic Games. Metaphorically speaking, the tribute encapsulates a disc being thrown by one of Zeus's twin sons, travelling through the millennia, and landing in the form of a contemporary disk, a compact disk, which reflects modern technology, information and the vast cultural applications of compact disks. Apart from the actual sculpture, which is seven metres in height and is surrounded by five ancient Greek columns, which reflect the five continents, there will be some vegetation in the nature of olive trees and Cyprus trees which have been dedicated to the various donors, each of whom has donated a minimum of $10,000 to sponsor one of the trees.

I say in every sense of the word that this project has been very much a community effort. The fundraising has been phenomenal, and has extended from little children who have drawn pictures for calendar sales to others who have organised various fundraising ventures such as fairs, festivals and other events to raise the necessary funds to enable this venture to come to fruition. Particular mention should be made not only of the community in New South Wales but also of the community in Canberra, the Hellenic Club having donated $70,000 towards this project. The efforts of the hard-working members of the committee have to be acknowledged, in particular Mr Tasha Vanos, who has been tireless in his efforts to see this project through and to raise the necessary funds. I congratulate all those involved.

NATIONAL RECONCILIATION WEEK

The Hon. I. COHEN [5.33 p.m.]: In the run-up to National Reconciliation Week I had an opportunity last night to host a preview screening of the film *Cry From the Heart*, which tells the personal story of the

journey of the members of one Aboriginal family who suffered terrible trauma, grief and loss through forcible separation from their relatives. The film will be shown again tonight at 8.30 p.m. on the SBS television show *About Us*. National Reconciliation Week 2000 is taking place from tomorrow 27 May to 3 June. This is the fifth annual event which has as its theme Corroboree 2000—Sharing Our Future.

National Reconciliation Week is framed by two significant dates in Australian history. The date 27 May is the anniversary of the 1967 referendum in which 90 per cent of Australians voted to give the Commonwealth power to make laws for Aboriginal people and for Aboriginal people to be counted in the census. The date 3 June marks the anniversary of the High Court's Mabo judgment in 1992 which recognised the native title rights of Aboriginal and Torres Strait Islander people and overturned the notion of terra nullius. This Sunday thousands of people will make an historic walk in the people's walk for reconciliation across the Sydney Harbour Bridge. The Council for Aboriginal Reconciliation will also present its final proposals for a document of reconciliation.

The people's walk for reconciliation will be a demonstration of the strength of the people's movement for reconciliation, bringing together Australians of all backgrounds, ages and walks of life. *Cry From the Heart*, which was produced by Jeni Kendall and Paul Tait of Gaia Films, won the Doco2000 award for excellence in the promotion of human rights and cultural diversity. Jeni and Paul have a reputation for powerful and relevant films, such as *Give Trees a Chance*, a film about the 1979 Terania issue, and *Earth First*, a compilation of the Terania, Nightcap National Park and Daintree rainforest actions and the significant event of the Franklin River blockade in 1982-83. They also made *Blowpipes and Bulldozers*, which was about the logging industry in Malaysia and the breaking down of the society of the Penang people.

Cry From the Heart is a gutsy, no-frills presentation about the effect on families of past practices. With open hearts and extraordinary courage, Chris, Lola and Frank Edwards have told their story, which involves two generations of stolen children. Alice, Gordon, Lola and Coral Edwards, when children, were taken from their Tingha home in 1951 and put into institutions. Alice came back

to Tingha when she was 18, met Henry Haines and had three children. She was pregnant with her fourth child, Christopher, when Henry died. Life fell apart and the same welfare authorities that took her away now came for her children. The little ones were put into white foster homes or with white families. Chris, Alice's little baby, was only eight months old.

Cry from the Heart takes up Chris' story of alienation, abuse and loss, leading to his 10-year imprisonment and to his becoming one of the State's most dangerous inmates. After a suicide attempt and in the depths of depression, Chris decided to turn his life around. He has begun the journey of healing to break the cycle of damage that has haunted his family for generations. Chris, a brilliant artist, has decided to truly be there for his child and to listen to the cry from his heart. I had the privilege of meeting Chris, Lola and Frank last night. They are wonderful people who have obviously gone through a great deal. Their warmth, understanding and spiritual evolvement allows them to openly accept white people in our society. They are truly magnificent human beings.

Chris, Lola and Frank gave a talk after the showing of the film. A touching moment for me was to hear that both Chris and Frank call Lola mum. Although she was their auntie, their mum had passed away and, in an open, familial attitude, they adopted her and called her mum. This warm and close bonding of a family, who have been through so much over a number of generations, is a fitting story in the prelude to Reconciliation Week. I commend both the film *Cry from the Heart* and Sunday's people's walk across Sydney Harbour Bridge as important tools in the reconciliation process. I suggest that all honourable members view the film tonight. I hope that many people will join with both indigenous and white Australians in walking across the Sydney Harbour Bridge on Sunday. I, Ms Lee Rhiannon and many other Greens throughout the community will participate in the walk with a sense of great joy and hope for the future.

NO NEW WOMEN'S PRISON CAMPAIGN

The Hon. Dr A. CHESTERFIELD-EVANS [5.38 p.m.]: I wish to emphasise the Australian Democrats' commitment to a fair and just society that views punishment through the prison system as a means of improving society. We need to remember that our modern history began with a high percentage of our population being transported to Australia for life. They were the refuse of English society, who had been reduced to poverty because of the industrial revolution, the destruction of the cottage industry and the rise of capitalism. We have not learned any lessons, because harsh penalties are still being imposed and the prison

population is increasing. We spend a great deal of time debating this issue in the House. We have not learned from our history. We merely follow the trends in the United States of America, although they are not successful. They stem from the cultural domination of the USA, its economy and the influence of Hollywood culture.

Next Monday from 9.00 a.m. to 5.00 p.m. the Australian Democrats will be sponsoring a youth summit, which will deal with the problems youth have with the criminal justice system, with health and with their emergence as individuals in society. I hope many people will attend the summit and learn; speakers will speak for youth. Today I emailed all members informing them of the summit. I really wish to speak about the No New Women's Prison campaign and its importance. As a member of the Select Committee on the Increase in Prisoner Population, I received a letter from the Sisters of Charity of Australia Congregational Office signed by Sister Annette Cunliffe. The letter was also sent to the Premier, the Leader of the Opposition and to all members of the committee. It reads:

Re: No New Women's Prison Campaign

I write to express my support of the No New Women's Prison Campaign.

The building of more prison capacity for women entrenches the incarceration of women as the response to offending, rather than the development of non-custodial options recommended by every NSW inquiry and most international research.

Most women are in prison for non-violent, mainly addiction-related offences. Such offending is better dealt with via non-prison punishments such as intensive drug treatment, which provides more humane and effective outcomes. About half of the women in prison have dependent children. Imprisonment for offences, which are not a threat to society, punishes these children, and puts the children at risk of entering the criminal justice system themselves at a later date.

It costs up to $56,000 to keep a woman in prison for a year. It will cost almost the same amount to care for each of her children who may become wards of the state or be fostered out. If the children of an imprisoned mother end up in the juvenile justice system (not an uncommon occurrence), it will cost the State up to $170,000 each year to house and further punish them.

Many women in prison are survivors of physical and sexual abuse. Imprisoning them does not help deal with those resulting problems which often lie behind their 'offending behaviour'.

Alternatives to building a new prison include such suggestions as the following:

Bail Hostels — a successful alternative to remanding women to prison. Many women, especially aboriginal women, are remanded in prisons because they do not meet the conditions of bail such as secure housing, guarantee of return to court, etc. Bail hostels provide supervised conditions but avoid the corrupting influences of prison. They allow women to maintain contact with children, continue or start rehabilitation programs and help maintain independence and dignity.

Intensive Drug Supervision Units — where women can be day attendees or residents depending on their circumstances. These units have proved highly successful in overseas jurisdictions with very low recidivism rates. They allow women to maintain responsibilities for children, maintain employment or gain employment, build independence and self-esteem.

Intensive Probation — whereby women remain in their own homes with their families but are placed under strict supervision (sometimes with three contacts a day). They are subject to both physical and electronic monitoring. They are required to undertake rehabilitation programs, work, living skills, and other independence building courses.

Each of these three alternatives is also a better financial option for the State. For example, in the budget an amount of $42 million was allocated for a new 200-bed prison at South Windsor. The capital costs of Windsor alone would buy and run a 15 bed Hostel for 29.5 years. An Intensive Drug Supervision Unit costs about half the cost of imprisonment while the Intensive Probation cost is about one-eighth that of imprisonment.

These are just three options out of a range of non-custodial, non-corrupting, socially positive approaches. These and other alternatives should be undertaken in response to the rise in women's prison numbers rather than building a new gaol.

I thank you for taking the time to read this letter and ask that you consider carefully the viable alternatives to a New Prison for Women.

I hope Parliament will take note of this plea. [*Time expired.*]

CORROBOREE 2000

The Hon. D. E. OLDFIELD [5.43 p.m.]: This Sunday a large group of people, likely to number in the thousands, will cross the Harbour Bridge to express their support for the reconciliation that so many have spoken of for so long. Although I have stated before my concern about the word "reconciliation" and its appropriateness, in this case it is the word, not the spirit intended by the use of that word, that concerns me. From the outset I make it abundantly clear that I want everyone in Australia to feel that we are one people with common goals moving forward together for the benefit of all. One might say that I want each Australian to feel that he or she is part of one nation. It is no coincidence that the name of the organisation of which I am a member is "One Nation". Its objective has always been that all Australians feel the relationship of being one people under one flag and of one nation.

Unfortunately, that message has been deliberately contorted, misrepresented, misquoted and confused by those who, for their own self-interest, have feared the rise of a new party and perhaps therein the fall of two-party domination. The views are varied as to how reconciliation will be achieved, with no-one having a complete picture or a frame of achievements that, having been reached, will signal that reconciliation has successfully occurred. Regardless of the largely ignored confusion over this issue, most people who cross the bridge on Sunday will probably have harmony in their hearts and decency in their thoughts. Whatever the debate over process and success, I wish them well.

I must note the very dangerous views associated with reconciliation and its place on the agenda according to Aboriginal and Torres Strait Islander Commission [ATSIC] Commissioner Charles Perkins. For Charlie Perkins, reconciliation is not the object but merely a step. Before quoting Charles Perkins I will read from a letter about the Mabo decision from Bruce R. Miles, principal solicitor of the Aboriginal Legal Service, dated 1992, which was printed in the *Sydney Morning Herald* on 2 July 1992. The letter states:

> Many have applauded the court for rejecting the terra nullius doctrine, apparently not comprehending that in its next breath, the court declared itself incompetent to explore the legal consequences.
>
> Instead of dealing with the fundamental questions of Aboriginal sovereignty, the court has offered a new doctrine of "native title"
>
> In spite of the Mabo decision, they (the Aboriginal people) will also continue to seek redress in the domestic courts for the many wrongs perpetrated during the 200-plus years of legitimate white occupation of this continent.

Most Australians think that reconciliation, when achieved, will be something along the lines of all of us living together in a fair and equal society, where there are no differences in stature or opportunity regardless of one's background; a place where we all have the same access and there is no discrimination. However, Australians need to be warned that this social utopia planned by Aboriginal leaders does not include white Australians. The plan, in fact, is to exclude white Australians, and the evidence is in what Aboriginal leaders say. Just as the letter I quoted from the principal solicitor of the Aboriginal Legal Service spoke of "sovereignty and illegitimate white occupation", so too eight years later Charles Perkins, the best known of all Aboriginal leaders, advocated the same emotions but went further. Last Sunday on the Channel 10 program *Meet the Press* Charles Perkins said:

> We're all moving towards a treaty, a makarata, one of those concepts.

On customary law, Charles Perkins said:

> … maybe in the north more than any other places. But you can adapt it in urban areas.

Charlie Perkins continued:

> We've got to have changes to the Constitution …
>
> … we haven't got sovereignty…
>
> We want it recognised in the Constitution.

All Australians must be warned because Charlie Perkins is saying not only that there must be different laws for Aboriginals but that they must have sovereignty—their own state—that they must not be Australians but something else, and that that must be enshrined in the Constitution. However, we are all defiled by the quote by Charlie Perkins in response to the fact that a great deal of money is spent on assisting Aboriginal Australians. He said:

> This country was owned by Aboriginal people in the first place and the money they're spending at the present is black money.

Make no mistake, Charlie Perkins, prominent leader of the Aboriginal people, believes that everything that has been made of the barren wasteland settled by white Australians in 1788 was done off the back of Aboriginal Australians, and that essentially they own the lot and they want it back. I know Australians of Aboriginal background who do not share the agenda of Charlie Perkins and, no doubt, there are many more of whom I am not aware. But they are sidelined by Perkins and his ilk for they, in wanting to be Australians, are an impediment to the riches sought by the despicable lot embodied and represented by Charlie Perkins. It is unlikely that Charlie Perkins and his mob will ever achieve their aims, but Australians should not ignore the tremendous damage that is being done to race relations in this country by the not-so-hidden agenda of "We want the lot and we want you to pay for it." [*Time expired.*]

TRANBY ABORIGINAL CO-OPERATIVE COLLEGE

Ms LEE RHIANNON [5.48 p.m.]: I wish to inform honourable members about a most important organisation called Tranby and its support organisation, Friends of Tranby. Tranby is an Aboriginal-owned, Aboriginal-managed community non-profit co-operative college. It receives great support from the Friends of Tranby. Much of the work of the organisation is committed to assisting Tranby in its fundraising endeavours, and working towards independence of Government funding, which is currently 70 per cent.

There is a wonderful way in which honourable members can have a good night out and help to support this most important organisation. On Saturday 17 June the Annual Dinner of Friends of Tranby will be held at the New South Wales Leagues Club in Phillip Street. It is a night when members of the organisation and those who attend will be able to hear Ms Evelyn Scott, the Chairperson of the Council for Aboriginal Reconciliation, who has done so much work for the important march on Sunday. Tickets are $30 and great food and great entertainment are guaranteed. We are happy to pass on more details.

Tranby carries out much important work and has brought education to many people around the country and to Aboriginal people in particular. Two courses it offers at the moment are the Diploma of Aboriginal Studies and the Diploma in Development Studies Aboriginal Communities. At present there are 32 course participants at Tranby. They come from Injinoo, Sabai Island, Burketown, Doomadge, Hopevale, Moree, Goonellabah, Banora Point, Swan View and Enmore. That shows that Tranby does an extraordinary job of bringing people from very remote communities; it takes great organisational skills to mobilise people from such diverse areas.

Skills, knowledge and expertise are the basis of the work carried out by Tranby college, and the range of activities is inspiring. Tranby works in co-operation with many organisations. For example, the National Trust of Australia hosts an annual heritage festival in which Tranby is regularly involved. This year Tranby, as part of its collaboration with the National Trust of Australia, held an event called Our Sporting Heritage, which acknowledged the indigenous sporting heritage of this country. Tranby hosted a series of events that culminated in an evening of what I hear were spectacular activities.

Tranby also brings to its Sydney headquarters at Glebe Koori students from various communities who are able to see first-hand what is happening at Tranby. Hopefully, what they see inspires them to return to Tranby for full courses. Recently, 18 Koori students from Eden on the South Coast and 16 students from Kempsey TAFE made a day visit to explore Tranby and see that it is an excellent centre at which to undertake studies. Recently at Tranby's annual student graduation ceremony the honorary doctorate recipient, Terry O'Shane, said:

> What you have done is not just for yourselves, but for Aboriginal and Torres Strait Island people as a whole, because you have learned to read and write.
>
> You people are part of the struggle, we take off our hats to you.

He spoke about the importance of education. He said that in the past he believed that the oppression of Aboriginal and Torres Strait Islander people had been a question of black against white but now he realised that class struggle was at the heart of the conflict and that it was necessary to get an education to challenge the existing order. The Greens will be pleased to join the people from Tranby and representatives of many other organisations in walking across the Sydney Harbour Bridge on Sunday. Again, I commend the Tranby dinner to all honourable members as a great way to continue working towards reconciliation with justice. [*Time expired.*]

Motion agreed to.

House adjourned at 5.53 p.m. until
Tuesday 30 May 2000 at 2.30 p.m.