

LEGISLATIVE COUNCIL

Friday 13 October 2000

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

The President offered the Prayers.

COMMITTEE MEMBERSHIP

Motions, in globo by leave, by the Hon. J. J. Della Bosca agreed to:

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

That Miss Gardiner be discharged from the committee on the Office of the Ombudsman and the Police Integrity Commission and Mr Colless be appointed as a member of such committee.

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

That Mrs Forsythe be appointed as a member of the Standing Committee on Parliamentary Privilege and Ethics in place of Mr Hannaford, resigned.

LIBRARY COMMITTEE

That Miss Gardiner be discharged from the Library Committee and that Mr Colless be appointed as a member of such committee.

STANDING ORDERS COMMITTEE

That Mr Gay be appointed as a member of the Standing Orders Committee in place of Mr Bull, resigned, and

That Mr Gallacher be appointed as a member of the Standing Orders Committee in place of Mr Hannaford, resigned.

Message forwarded to the Legislative Assembly advising it of the resolution regarding the joint committee.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. J. S. Tingle agreed to:

That standing and sessional orders be suspended to allow the moving of a motion forthwith that private members' business item No. 49 outside the order of precedence, relating to the Workplace (Occupants Protection) Bill, be called on forthwith.

Order of Business

Motion by the Hon. J. S. Tingle agreed to:

That private members' business item No. 49 outside the order of precedence, relating to the Workplace (Occupants Protection) Bill, be called on forthwith.

WORKPLACE (OCCUPANTS PROTECTION) BILL

Motion by the Hon. J. S. Tingle agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Second Reading

Debate resumed from 31 August.

The Hon. J. J. DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for

the Central Coast) [11.06 a.m.]: The intention of the Workplace (Occupants Protection) Bill is in many respects identical to that of the Home Invasion (Occupants Protection) Act introduced by the Government in 1998. However, there are a few key differences with significant consequences. In particular, the Home Invasion (Occupants Protection) Act applies only when the offender has first made an unlawful entry into a dwelling house. Obviously there is no such requirement in the workplace bill because, in many cases, the offender is on the premises as an invitee of the occupier.

It is important to note that under the Home Invasion (Occupants Protection) Act an occupier only has to believe that the offender has committed or is committing a crime in the dwelling house. The requirement of reasonable belief is not essential because the occupier's home has already been unlawfully entered. The Home Invasion (Occupants Protection) Act largely codified the common law of self-defence and defence of others within the home for the occupants of dwelling houses. However, in the area of property defence within a dwelling house, the Act went further than the common law by applying the same law as self-defence to property. The rationale for this extension is that the home is seen as an individual's private sanctum that requires additional protection since it has been unlawfully entered. Such an extension of the existing common law principles should not be applied in the workplace. The codification of self-defence and defence of property for the purposes of protecting occupants of workplaces is desirable, and is an outcome the Government has also been working toward.

The Government is pleased to accept the honourable member's bill on this issue. The bill represents a timely introduction of an important reform. The new law will protect occupants of workplaces and spell out their rights in terms of offenders and suspected offenders entering the workplace. The Government has already shown its commitment in this area with the setting up of a working party comprising representatives of Government, small business, retailers, employees and others to canvass options for education and reform to ensure occupants of workplaces are made aware of their rights and obligations. I understand that that working party has met three times and is moving toward providing the Government with concrete advice on how to best move forward in concert with this legislation.

Members need to also be aware that, as a result of this bill, New South Wales will be subject to three laws applicable to self-defence, the defence of others and the defence of property. In the home the applicable law is the Home Invasion (Occupants Protection) Act, in workplace the applicable law will be the Workplace (Occupants Protection) Bill, and outside the home and workplace the common law will apply. The Government is of the view that the honourable member's bill is an important part of the law in the area of self-defence. We accept the bill, we like its concepts, but we are also working toward ensuring uniformity in the law of self-defence.

The bill represents a reform that will lead to the next step. That next step is the Government's intention that next year we will bring the elements of the home invasion laws and this proposed law, along with the broader concept of self-defence and defence of property in general, into a single bill to be presented to the House. The Government will also codify the capacity of citizens to make arrests, and the limitation upon that responsibility. At present, any person is given the power to make an arrest at common law where a crime is committed under section 352 of the Crimes Act 1900. However, the limitations and responsibilities remain unclear.

In supporting this bill the Government does not encourage vigilantes or vigilantism. We are assured that that is also not the intention of the Hon. J. S. Tingle in introducing the bill. As a matter of policy, it is preferable for trained officers such as police to make arrests. However, in rare cases where a citizen is required to use good judgment to make a timely arrest to prevent a criminal absconding, it is essential that the law makes it clear how the situation may arise, and that it provides appropriate guidance for the making of such an arrest. The measure really should remain that which a police officer would do in the circumstances. These issues will be addressed more fully when the Government introduces legislation next year.

The bill as presented to Parliament has one anomaly which the Government raises. Clause 10 refers to proposed sections 7, 8 and 9 in reference to "reasonable belief". The Government is of the view that the reference to proposed section 9 must be deleted to ensure consistency with the existing common law capacity to protect property, and will move an amendment to this effect in Committee. The belief in terms of acting to protect property must be an objective one. It is appropriate for the belief to be subjective in a home invasion context and for self-defence and defence of others, but not in this context. The Government has raised this with the Hon. J. S. Tingle, and I understand that he has no difficulty with this reference being omitted, to ensure consistency with the current law, as it does not offend his intention of clarifying the current law rather than changing the principles.

I note the concerns raised by the Hon. J. S. Tingle towards the end of his second reading speech about youth diversionary programs. He said that the Young Offenders Act is sending exactly the wrong message to young people about how seriously society views their offence, and that we seem to be saying to them "Because you're young, you will be treated differently, and with leniency." On the contrary, the Young Offenders Act is a very powerful tool in sending the right message to young offenders, and brings the community into the sentencing process with regard to crimes committed by youth. The Act in no way trivialises offences by young people but, rather, makes them face up to the consequences of their offences. For example, the option of youth conferencing may bring the offender face to face with the victim to discuss the consequences of the crime.

It is also important to restate that the Act provides options. With regard to certain offences, the courts and the police have a discretion to use the provisions of the Young Offenders Act to deal with the offender. Otherwise the more traditional options will prevail. Courts and police officers determine suitability. A report on the Young Offenders Act released by the Bureau of Crime Statistics noted that those surveyed, particularly victims, were satisfied with the way in which the cases dealt with under the Act were handled. Youth conferencing and sanctions available under the Act are an outstanding success. I ask all honourable members to support the use of the programs and to dispel misconceptions that the Young Offenders Act sends the wrong message to offenders.

The Government supports the bill on the basis that a full review of the law of self-defence, defence of other persons and defence of property is to be undertaken by the Government. The intention of the review is to establish one consistent law of self-defence, defence of other persons and defence of property to apply in all circumstances, including the workplace and the home. The review would accordingly result in the repeal of the Home Invasion (Occupants Protection) Act 1998 and the Workplace (Occupants Protection) Act if passed. For those reasons I am happy to say that the Government welcomes the bill and will support it.

The Hon. M. J. GALLACHER (Leader of the Opposition) [11.14 a.m.]: I am also pleased to support the Workplace (Occupants Protection) Bill. The Hon. J. S. Tingle is to be congratulated on his continued interest—a sincere and deep interest—in the protection of individuals in our community. That interest was also demonstrated in 1998 with his introduction of the home invasion bill, a bill which received widespread support from the community following a spate of home invasions which resulted in individuals in our community feeling that they were no longer safe in their own homes, that their castle was no longer sacrosanct, and indeed that this would generate an increased trend towards people being attacked whilst in the safety of their own home.

Of course, the community's great concern with regard to home invasion really came about as a result of media reporting on the number of people who were the victims of home invasion whilst they were asleep. To be woken by a balaclava-clad offender brandishing a weapon and to be subjected to an act of violence—quite often an act of violence generated as a result of a search for drugs or cash, or both—would be a terrifying experience. Of course, it could be argued that the number of home invasions on individuals in the community was not necessarily indicative of the feeling in the community and the perception that home invasion was incredibly widespread. Be that as it may, the Hon. J. S. Tingle identified the community expectation that something would be done in relation to the matter and subsequently introduced a bill in this House, as indeed a similar bill was introduced in another place.

The Hon. J. S. Tingle fought stoically to ensure that the bill passed through the Parliament, and of course it eventually did. In many respects, the Workplace (Occupants Protection) Bill bears a striking resemblance to the home invasion bill 1998, in that it also seeks to codify the rights and responsibilities of the householder. However, the Workplace (Occupants Protection) Bill goes beyond that: it seeks to protect the rights and responsibilities of people in the workplace. We have seen an incremental change in legislation in New South Wales that is designed to protect individuals in this community. As the Hon. J. S. Tingle rightfully pointed out in his second reading speech on 31 August, this legislation following on from the home invasion bill was designed to seek some clarity with respect to the common law and the nebulous term "reasonable force".

I think all honourable members acknowledge my many years of dealing with that definition in a previous occupation, both from an arresting police officer's perspective and also in relation to the numerous internal investigations I conducted into the acts of other police officers when they themselves made a decision with regard to reasonable force. As the Hon. J. S. Tingle also pointed out, the concept of what is reasonable is intangible, especially when it is considered in retrospect some months or even, in many cases, years after the event when the excitement, tension and fear that was evident at the time the event took place is not necessarily there when it is put under the microscope in the course of either a court inquiry or indeed a police investigation.

It would be extremely difficult for an investigator—and I suggest that it would be very difficult for many law officers or indeed juries—with the benefit of hindsight to put himself or herself in the situation of the victim who felt that his or her only means of protecting himself or herself, his or her loved ones or property was to take reasonable force to effect protection. This legislation, following on from the home invasion legislation, continues the trend towards codification and clarification of some of the areas of the common law that have often been the subject of debate. The Special Minister of State mentioned the powers of arrest referred to in subsection 4, which provides that a police officer or any other person may effect an arrest.

I remember in 1980 we were forced to learn in parrot fashion day after day, like learning prayers, the powers of arrest. The reality was that beyond the lectures given at the academy at that time very little was done to clarify exactly what "powers of arrest" meant. I suspect that as the years have gone by nothing has changed; the explanation to officers today would be exactly the same as that given in 1980. Many officers would leave the lectures and the course with a nagging doubt about what constitutes "reasonable force". The changes in this legislation serve to assist the application of law in this State and those investigating the application of reasonable force. Also, the much confused and alarmed community of New South Wales will have greater access to information and a greater understanding of the law, so that if they are confronted with an act of violence they will know where the law is proceeding on the definition of reasonable force.

Some might argue that most members of the community do not know and do not care. That it is a falsehood. I have held many public meetings as a member of this Chamber and previously gave lectures in the New South Wales Police Service on law enforcement. Overwhelmingly the first questions that were raised at every public meeting was: What do I do if I wake up in the middle of the night and I am confronted with somebody brandishing a weapon or a piece of timber? What happens if I am walking down the street and somebody confronts me? This confusion in the community has been caused by the continuing speculation and confusion generated through the media. The media are merely replicating what is occurring in the courts and presenting that information to the community. Time and time again we have heard of individuals being arrested, when they themselves were the victims of the initial crime, because of action they took to protect themselves.

This confusion has continued to be generated over many years; it has not eventuated in recent times. Fear has escalated through the community as more and more people become aware of an increase in crime in this State. Acts of violence and the perception of fear in the community are increasing and more people in our community have become aware of the confusion about reasonable force. The genesis of this legislation is an event in Maitland in recent times. I will refer to it as the Lee matter. A shop owner took action to protect himself and bring about the arrest of an offender who had committed property theft on his premises. That gentleman was subsequently arrested and convicted. That case built on the confusion and misapprehension in the community that the law works to protect the offenders, not the victims. It is extremely important that the Parliament ensure that this confusion and misapprehension in the community is put to rest as quickly as possible.

This legislation, which was introduced on an earlier occasion and is being debated through all stages today, is the incremental process by which we will eventually turn around the confusion that exists in the community. Members of the community will know that when they go about their normal business—whether that is in the home, as is now legislated, or in the workplace, as will be legislated very shortly—they can be assured that the law is working for them and not against them. The legislation will guarantee that members of the community will have protection and clarification should they take reasonable steps and use force to protect themselves from a physical act of violence against them. The Special Minister of State has made the distinction between the Workplace (Occupants Protection) Bill and the Home Invasion (Occupants Protection) Bill. I will not labour the point by going through the distinctions.

The Hon. J. J. Della Bosca: "Liberal" the point?

The Hon. M. J. GALLACHER: It is interesting that I say "labour" when talking about criminal activity. I thank the Minister for bringing that distinction to my attention. As this incremental process takes place to clarify the rights of individuals to protect themselves, the Parliament has spoken and voted on the bill in respect to the home. One would anticipate that the Government will do the right thing upon the successful passage of this legislation through the Legislative Council. The bill will be allowed to pass through the Legislative Assembly unamended to become law. There is one missing piece to the jigsaw. The home and the workplace are covered. We need to simplify the issue of self-defence by stipulating that a level of force is acceptable to use against an assailant to protect oneself and one's property beyond those two areas.

In his second reading speech the Minister alluded to legislation being introduced next year that will bring about this clarification. I am sure that the Minister is aware that such legislation is at this very moment in

the Legislative Assembly. It is extremely important that this matter be clarified expeditiously. The right to a self-defence bill, of which notice was given yesterday by the shadow Attorney General in another place, is the missing piece of the jigsaw. I urge the Minister to have a look at the right to self-defence bill because I know he is concerned about the rights of individuals to protect themselves.

The Minister is a resident of the Central Coast—without doubt, the most beautiful part of New South Wales—as am I. I know that he would like to see a time when the people in our local community, particularly the aged, feel safe and confident to leave their homes and walk down the street in areas around the Brisbane Waters and Tuggerah Lakes. With the passage of the Home Invasion (Occupants Protection) Bill people are now protected in their homes. This Parliament must do the right thing and ensure that the right to self-defence bill is enacted as a matter of urgency so that we can complete the process. That bill simply says that anywhere in New South Wales people are protected, in the same way that the Workplace (Occupants Protection) Bill and the Home Invasion (Occupants Protection) Bill have proceeded to clarify issues.

I am sure the Minister will support me, on behalf of the people of the Central Coast, in ensuring that the right to self-defence bill is put in place as a matter of urgency. I am also sure that he would join with me in congratulating the shadow Attorney General in another place, who is, I might add, another resident of the Central Coast. The three of us can work together to ensure that the people of the Central Coast and the people of New South Wales are protected no matter what they do as they go about their daily lives. That principle applies not only to people on the Central Coast but, indeed, to those throughout the entire State.

This legislation works in conjunction with the Home Invasion (Occupants Protection) Act because it extends the codification and clarification of the common law with respect to the term "reasonable force" and extends the earlier criteria of "home" and "workplace" to extend the protection of the law to absolutely everyone everywhere in New South Wales. This legislation seeks to extend the boundaries of two well-meaning pieces of legislation: the Home Invasion (Occupants Protection) Act and this bill. I am pleased to support the Workplace (Occupants Protection) Bill. Again I commend the Hon. J. S. Tingle for its timely introduction.

Ms LEE RHIANNON [11.20 a.m.]: The Greens oppose the Workplace (Occupants Protection) Bill. In 1998 my colleague the Hon. I. Cohen spoke strongly against what is known as the home invasion Act. Again the Greens will fly the flag for a sane and reasoned approach to law and justice. Members will certainly make their speeches but, as all honourable members would know, the die is cast. Very shortly this bill will become law. When it comes to this House, law and order is determined by the major parties. But there is always muttering in the corridors, and there are mutterings in the corridors today by some Government members who are concerned about their own Government's tendency to override them. Many people are concerned about this bill and are saying that it is a terrible piece of legislation because it is contradictory and totally unnecessary.

I will outline some of the reasons why the Greens oppose this legislation. The use of physical force is not a route to safety: Physical force does not equal safety. In fact, the opposite is true because under this legislation the victims are more likely to be hurt than the perpetrators—as has been demonstrated time and time again. The United States is one of the best examples of that because people there are encouraged to arm themselves and some horrible crimes have occurred. I reiterate that the victims are the ones who will fare the worst as a result of this legislation. Throughout the world, it has been proved that when police officers on the beat are heavily armed, it is more likely that ordinary citizens will be hurt when violence or conflict occurs.

This bill ignores the reality that most violence actually occurs in the home, not the workplace, and this is particularly so in relation to women. This bill and the previous legislation that was introduced by Hon. J. S. Tingle and supported by the Government do nothing to address that situation. I understand that, for men, most violence occurs in public places, yet this bill addresses violence in the workplace. Members will recall the incident that prompted the introduction of this bill. An incident occurred in a video store in Maitland. Why would a young man steal videos? More than likely because he had nothing to do, he was bored and wanted to see a video, and he did not have the money to hire one.

The Hon. J. S. Tingle: That does not justify a thing.

Ms LEE RHIANNON: I am not saying that it justifies crime and I am sure the honourable member knows I was not saying that. I was about to develop the argument that the incident does not justify the introduction of this legislation. I ask honourable members to cast their minds back to an event that occurred a few weeks ago which was the subject of debate last Tuesday, namely, the Olympics. When I spoke to the Olympics motion I said that the level of crime had decreased during the Olympics period. Hopefully there will be some detailed studies about that, but I suggest that the reduction in crime was as a result of people having something to do. People were occupied, and that was a much healthier situation for society.

I said also that the majority of young people do not have much money. It is often the case that they do not have any money to spare and that would certainly be the case in a place like Maitland. While that does not justify crime, it highlights the need for society to accept the responsibility of looking for answers rather than just "beat 'em up and lock 'em up". Rather, society should adopt the approach of offering young people alternatives—something to do, jobs or a real place in our society. The provisions of this legislation are contradictory to other Acts. Section 12 (2) of the Firearms Act clearly states that the general reason for owning a firearm is not self-protection or the protection of property.

That principle is also recognised by the Australian Police Ministers conference, because section 3 of the Police Ministers' agreement notes that personal protection is not a reason for owning a firearm. Those principles are very clearly set out in existing legislation and that is why this bill is so dangerous. It takes us down the path of people having firearms to use against other people, yet it does nothing for victims. In fact, it can actually place victims in a more dangerous situation. The Leader of the Opposition said a great deal about protection, but this bill will not provide greater protection for ordinary people. Effectively, it will lead to the creation of arms races in the suburbs. That has been the experience in the United States, where a weapons war has developed. The Special Minister of State has just said to me in a voice not loud enough to be heard by other honourable members, "I don't think so, Lee."

Again I draw attention to the practice in the United States which all too often has led to the tragedy that we see on television when people take to each other with weapons. This bill will take New South Wales down that path, and that is not a path that will lead to greater protection for ordinary people. It is hypocritical of the Government to support this legislation, because it has made a big deal about protecting victims' rights. This legislation is misdirected because it will not deliver benefits for victims. Rather, by encouraging victims to believe that if they have weapons they will be protected under the law, the position will be made worse because they will have a false sense of security. Perhaps victims will get away with inflicting injury, but in the worst case scenario the victims themselves might be injured or they might injure an innocent bystander. This legislation is not the way to make society safer. The Greens will strongly oppose this bill.

The Hon. R. S. L. JONES [11.38 a.m.]: I oppose the legislation, which is deeply flawed. This bill is another example of legislation that has been produced as a result of sensationalist press articles and a knee-jerk reaction by the Government and the Opposition. I wonder whether the Opposition has actually analysed the legislation or examined the ramifications of it.

The Hon. M. J. Gallacher: It is a private member's bill.

The Hon. R. S. L. JONES: But the Government and the Opposition are supporting it as a knee-jerk reaction to articles that appeared in the *Daily Telegraph* and other newspapers which published the wrong information. I will come to that in a minute. I wonder whether any member of any Opposition party or any member of the Government or any of those who support the bill have read the court transcripts of either the shoplifter's or shopkeeper's evidence in the Maitland matter. I doubt it, because I received copies of this material only this morning after having made a request some time ago. I am sure that in drafting the bill all parties involved have relied on news reports, word of mouth, and community perceptions as opposed to actual knowledge of the facts. This legislation has been based on a lack of information. I will read the fact sheet of the case, which, apparently, no-one else has read:

The defendant has seen the juveniles and has picked up a home made club and cable ties and gone to the front of his shop and waited for the juveniles to leave his store ... When the juveniles have walked out of the store the defendant has grabbed one of the juveniles and pushed him over, just outside the main door of the shop. The defendant has then sat on the back of the juvenile who was facing down on the ground. The defendant has then used the cable ties to tie the juveniles hands behind his back. He has then tied the juveniles legs together. The juvenile then alleges that the defendant tapped him with the club around the stomach area and located the hidden video. On finding the video the defendant has then hit the juvenile across the back of his leg with the club. The juvenile then alleges that the defendant has again struck him with the club on the other leg. When the defendant struck the victim the victim alleges he was tied up and was not struggling or trying to get away. This information has been corroborated by an independent witness who saw the whole incident ... Due to being tied up and hit twice with the club the victim suffered bruising and welt marks to the back of his legs, redness to his wrists and ankles.

The fact sheet goes on to record:

... One of witnesses has approached the defendant and told him to leave the victim alone. At this time the victim was crying and the victim said to the male witness, "He is crazy, please don't leave me." ... The witness and his wife have then stayed at the scene and the witness cut the cable ties from the victim's ankles. The victim has then broke the cables from around his wrists. ... The witness has told the defendant to put the club away and the defendant put the club back inside his shop.

The fact sheet further records:

All witnesses who supplied statements to police have indicated their concern about the way the defendant treated the juvenile, especially as he had him tied up and then struck him with the club. ... The victim is 16 years of age.

One crime committed does not justify the committing of another crime. The defendant committed a crime, and it was found that he had. Likewise, the juvenile committed a crime, and suffered a penalty. The bill, and its support by both parties, is a disappointing reaction, but I am not surprised. It is yet another example of how the law and order rhetoric is trotted out again and again with no real understanding on anyone's part of how little crime there actually is in this country, fortunately; let alone any attempt to come to grips with what causes crime. Whenever a law and order bill such as this comes before the House we have the usual sweeping and inaccurate statements about how juvenile crime in particular is out of control, how kids are running wild, how they are worse today than they were when we were young, et cetera.

I note that much of the fuss about the case that sparked the legislation, the John Lee case, in both this House and the press, has centered on the fact that youths were involved. The *Daily Telegraph* article of 9 August 2000 entitled "When the laws make no sense" is captioned "Video shows **youth** lingering". The story mentions the age of the offender no fewer than 11 times. In a *Daily Telegraph* article dated 24 August entitled "Shopkeeper to fight on", the offender's age is mentioned six times. Why is there this obsession with the offender's age, if not to perpetuate the myth that juvenile crime is out of control? This is the problem. Politicians respond despite having no idea of the facts of the case and make laws to address perceptions of crime rather than the reality. It is a dangerous trend that, once again, we are showing an unholy eagerness to embrace.

The Standing Committee on Law and Justice commented on this in its initial report on "Crime Prevention Through Social Support", and again in its final report. Its chairman, the Hon. R. D. Dyer, said, "It is a justifiable claim that crime fears can be exaggerated," and indeed they are. Many members in this House have commented favourably on the findings of the report, and signalled their intention to develop cost-effective and socially responsible methods to reduce crime in our society. A matter that particularly interested me was the comment by the law and justice committee on the factors that lead someone to commit a crime. The report shows that people rarely commit crime without some external factors influencing their behaviour.

For example, the New South Wales Bureau of Crime Statistics has shown that the key factors leading to crime include poverty, unemployment, poor housing, and child neglect and abuse, to which the Rand Institute has added the factors of poor education, mental illness, and dramatic life experiences, to name but a few. As the Hon. Dr P. Wong said when speaking to the first report of the standing committee, it dispelled the myth that crime is committed predominantly by children and young people, that juvenile crime is prevalent, that it is rampant and that it is out of control. Instead, the report reveals that there is no increase in the juvenile crime wave. Young adults who offend are principally victims of crime or some other family or institutional trauma that has coloured their outlook on life. I quote the Hon. R. D. Dyer once more:

The potential for effective crime prevention among young people is high because of the very low rate of reoffending compared to the offending rates of adult offenders. Apart from anything else, I know from my experience as Minister responsible for juvenile justice in the past that the majority of young people, in fact some 70 per cent, who offend do so only once.

However difficult the situation facing shopkeepers may be, young people should not be regarded as criminals in debates in this House and the other place when there is no evidence to support that assertion. Legislation should not be rushed in simply because honourable members feel the need to respond to community perceptions rather than to the reality. I understand that people may have difficulty understanding their rights and responsibilities under the law. Traditionally, laws have been crafted in inaccessible language, so it is no wonder that few people understand them. In part, that is our fault. I would like to see legislation drafted in plain English so that everyone can understand the implications of what we do and say here. The Premier pointed to a better way of dealing with the specific problem of people not understanding the common law when he suggested that an educational campaign would be started to inform people of their rights in regard to self-defence and the defence of property.

According to the *Daily Telegraph* in August, the Commissioner of Police announced that his officers would produce a booklet for shopkeepers that would be distributed in October. What is happening with the program? At what stage are we in the distribution of the booklets? I note the comments yesterday by the Hon. Bob Debus about a bill introduced by the Opposition. Although I will not comment on the particulars of that bill, it is worth noting the Attorney General's comments in a *Daily Telegraph* article entitled "Bill labelled 'licence to kill' ". In the article the Attorney General said that the State Government was moving to codify a citizen's right to self-defence, defence of property, and a citizen's right to make an arrest in the home, in the workplace and in public. This is to be applauded, but given these statements I am at a loss to understand why the Government is supporting the Hon. J. S. Tingle's bill being rushed through. As the Bar Association stated:

... the Association questions the need for this legislation which, as we have said, generally reflects the common law. Introduction of legislation such as this, which does not purport to cover the field but rather covers one circumstance, can serve to complicate the practical day-to-day application of the criminal law.

We suggest that it might be more appropriate to address the whole question of self-defence (including excessive self-defence) rather than to proceed in this piecemeal fashion contemplated by the bill.

The association then offered its expertise in any endeavour to reshape the law to better reflect community expectations and needs. So far as I am aware, this offer has not been taken up. In a letter to the Hon. J. S. Tingle the Law Society raised grave fears that:

In seeking to codify the common law, great care must be taken neither to limit it nor create any uncertainty or ambiguity.

The society raised concerns about the term "suspected offender" and the apparent endorsement of the use of force in section 7 in these terms:

... has the potential to mislead members of the community about their rights and obligations under the law.

The law now states, and I quote from section 58 of the Crimes Act 1900:

The question to be asked is whether the accused believed upon reasonable grounds that it was necessary in self-defence to do what he did. If he had that belief and there were reasonable grounds for it, or if the jury is left in a reasonable doubt about the matter, he is entitled to an acquittal: *Zecevic*, above, at 661.

It goes on to say:

Defence of other persons A person may use force to protect another person from an unlawful assault being committed or threatened to be committed by a third person.

Under "Defence of property" it says:

A person is justified in using reasonable force in defence of property eg removing a trespasser or preventing his entry; restraining another from taking or destroy his goods.

That is the law as it stands now. Clause 11 of the bill says:

If in proceedings against an occupant of a workplace the occupant seeks to rely on the provisions of sections 7, 8 or 9, the prosecution has the onus of proving, beyond reasonable doubt:

- (a) that the occupant did not have the belief alleged, or
- (b) that the grounds of the occupant's belief were not reasonable grounds.

It is patently obvious to anyone who knows a modicum of law that it is totally impossible to prove that a person had the alleged intent. What it really means is that anyone can do anything he or she chooses because that person will always get away with it. A person can use whatever force he or she chooses because no-one can prove that person had the belief or otherwise that it was unnecessary.

The Hon. HELEN SHAM-HO [11.49 a.m.]: Initially I had reservations about the bill, and I still have some reservations about it, but on balance I support it, particularly as the Government has indicated that it will move an important amendment. The bill seeks to codify the rights and responsibilities of people in defending themselves, others and property from attack or injury in their places of work. I support people defending themselves and others but I have problems with their defending their property, and that is why I congratulate the Government on this foreshadowed amendment. The Government has indicated that it will review both the Home Invasion (Occupants Protection) Act 1998 and this legislation next year. The codifying rights and responsibilities are very important and it is important that people have no mistake about them. The overview of the bill states:

The object of this bill is to protect persons at places of work from suspected offenders.

I also have problems with the words "suspected offenders". The overview continues:

The Bill:

- (a) declares that it is the public policy of the State that its citizens have a right to enjoy safety from suspected offenders while present at a workplace, and
- (b) sanctions the use of physical force by an occupant of a workplace in defence against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so, and
- (c) provides immunity to occupants from criminal and civil liability arising from anything done by them that is sanctioned under the proposed Act.

That is all noble. I realise that the Law Society also suggested to the Hon. J. S. Tingle that he withdraw his bill because of the reservations I briefly indicated earlier. It is important to understand that the level of force that can be used when harm is threatened to oneself or others is very different to the force that can be used when only property is threatened. There is a common law distinction between self-defence and defence of property. I will support the bill if that distinction is maintained, until such time as the Government reviews it. If the test of defence of property is adopted in its present form in the bill, a different test will apply as between defence of property and a citizen's arrest even though in many scenarios, such as shoplifting, both would apply. I say it should not apply.

An article in the *Daily Telegraph* on 24 August entitled "Shopkeeper to fight on" dealt with Mr John Lee, who owns a video store at Maitland. I am certainly sympathetic to Mr Lee. He wants to give shopkeepers the right to defend themselves and their property. However, he is perturbed about youngsters stealing his videos and only being cautioned. I sympathise with his problem of continually having videos stolen from his shop and wanting the thieves to be punished, but as long as it is not the same youngster involved all the time, I think a caution is appropriate. It seems very unfair that Mr Lee was charged with assault while the youth was cautioned by police and allowed to go free. Mr Lee was the one from whom the property was stolen but he was charged with assault, and I can understand his concern.

The Hon. J. J. Della Bosca: He did assault the youth.

The Hon. HELEN SHAM-HO: That was not reported in this newspaper article and I was not sure. The Minister said that he did assault the youth. But that is the crux of this legislation. I believe it is understandable and permissible if force is used to defend yourself and an assault is committed, but it is not acceptable to assault another person simply to prevent the theft of a video. I raise those viewpoints and I look forward to the Government's amendment and the future review by the Government.

The Hon. Dr P. WONG [11.55 a.m.]: I support the private member's Workplace (Occupants Protection) Bill, and I congratulate the Hon. J. S. Tingle on introducing it. This bill is consistent with the home invasion Act. I will also support the Government's foreshadowed amendment to the bill. In doing so, I note that the Government intends to introduce a bill next year to replace this bill and the home invasion Act. It will apply to a citizen's rights to self-defence in the home, workplace and public places. The Hon. J. S. Tingle and I feel that people in their workplace, particularly shop owners, must be able to use reasonable force to protect themselves and their property from attack. They must also be aware, and feel confident in the knowledge, that they can use reasonable force.

The New South Wales Bar Association notes that this bill does not differ markedly from the existing common law right to self-defence. However, the bill makes it clear beyond doubt that shopkeepers and others can use reasonable force. The Bar Association suggests that the protection of property may be given too high a priority. The present common law makes it clear that the level of force that can be used to protect oneself is different to the level of force that can be used to protect property. I think that difference should be maintained. With the Government's amendment to this bill, shopkeepers will still be able to use reasonable force to defend their property or make a citizen's arrest. It will also make clear that shoplifters cannot be seriously injured by shop owners. For those reasons I support the bill and the Government's amendment.

The Hon. I. COHEN [11.56 a.m.]: I join with Ms Lee Rhiannon in saying that the Greens strongly oppose this bill, for the same reasons that we opposed the Home Invasion (Occupants Protection) Act in 1988. During debate on that Act the Greens argued that it was dangerous and would legalise the use of grossly disproportionate violence. This bill could even legalise the killing of an individual in a workplace. In 1998 we argued that the legislation allowed individuals to take the law into their own hands in certain situations. If a person has allegedly committed a crime in a workplace, such as a violent crime against a person or property, the proper place for them to be brought to justice is in the courts. Individuals in the workplace should not be allowed to take the law into their own hands. The Law Society of New South Wales supports the Greens position. In a letter to the Hon. J. S. Tingle dated 6 September 2000 it said that its Criminal Law Committee:

... is particularly concerned that the proposed legislation might encourage people to risk injury in defence of property.

Further the letter states:

The Committee fears that the legislation conveys a wrongful impression about the legality of using force against others, and may lead to the infliction of serious injuries that might have the possibility of resulting in death.

Other speakers have clearly discussed the issue, but we are attacking the wrong end of the problem. It appears that in certain circumstances youth will be targeted in this type of law and we need to look at issues that will reduce their participation in crime, such as various activities, creativity, a sense of ownership and an inclusive society. That is where the money and the energy should go rather than having a stopgap situation where the law and order campaign is getting out of hand. Now the Leader of the Opposition is talking about having protection everywhere. It appears to me—and others have said—that legislation dealing with home invasion in the workplace and in public areas is an open invitation to adopt the American model of carrying personal firearms or other weapons for protection. We have seen that does not work. I have great concerns about this bill. It might appear straightforward to many people but I have seen instances of violence in the workplace, and I am concerned that this legislation will send the message that the law can be abused. Clause 10 of the bill states:

Whether grounds are reasonable grounds for the purpose of section 7, 8 or 9 is to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceived them to be.

Of course, the workshop also means industrial work sites. And it means a developer's land. Recently I faced a situation where I had reason to inspect a developer's land as I believed the developer, Jerry Bennette of Byron Bay, was acting illegally against a council stop-work order. We exchanged words. He then went to the police and took out an apprehended violence order against me, which subsequently was defended by me in court and the case was dismissed. That same man tackled a young person who entered his property to complain about his land—

The Hon. D. J. Gay: Aren't you in court about this?

The Hon. I. COHEN: It is finished. The court case is over and the case has been dismissed. I was clearly shown to be within my rights. It is good to see that the honourable member is ever vigilant! However, the young man went onto the developer's land where bulldozing was taking place. He was taken in a headlock, thrown on the ground and held in an uncomfortable, distressful and dangerous situation for a long period of time until the developer was convinced to get off him. This is the sort of law that will encourage this type of activity, and I see it as a dangerous direction to take. We should take due care and examine other ways of addressing the problem.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

WORKERS COMPENSATION PREMIUMS

The Hon. M. J. GALLACHER: My question without notice is to the Minister for Industrial Relations. As the Minister claims his draft legislation, the Workers Compensation Legislation Amendment Bill, will result in savings on workers compensation premiums, will he table in this House the actuarial calculations showing how much will in fact be saved?

The Hon. J. J. DELLA BOSCA: The estimated annual savings from these particular reform initiatives, when fully implemented, would be over \$100 million. Savings are expected also from the premium discount scheme to be introduced on 30 June 2001, which I have already outlined, at least in brief, to the House. Final estimates are not available at this stage as the scheme is not fully developed and any savings will be dependent on take-up rates by employers. However, similar schemes operate successfully in many States in the United States of America. For example, a similar program in Massachusetts has operated successfully for many years. Evaluation of the Massachusetts program showed cost reductions for program participants of 31 per cent versus 12 per cent for non-participants. The premium discount scheme was introduced in Massachusetts as part of a broader range of reforms and, hence, it is difficult to isolate discount scheme effects.

Assuming the proposed New South Wales scheme is as successful as the Massachusetts program and that 25 per cent of employers participate in the scheme, claims cost reductions of up to \$100 million might be achieved resulting in net savings of up to \$40 million after the discounts are taken into account. Of course, workers compensation costs are a real concern for this Government. For a number of years the Government has recognised the impact of premiums for employers. We have held premiums, including GST, believing that while it is less than the real cost of the scheme the Government has been committed to ensuring that workers compensation premiums are at an affordable level for employers. The further detailed specifics will be clearly available when we debate the legislation.

SUSTAINABLE RECREATIONAL FISHING

The Hon. AMANDA FAZIO: My question is to the Minister for Fisheries. What action is the New South Wales Government taking to ensure recreational fishing is sustainable?

The Hon. E. M. OBEID: I express my personal thanks to the Hon. Amanda Fazio for a very important question.

The Hon. M. J. Gallacher: You wrote the question for her.

The Hon. J. J. Della Bosca: No he didn't.

The Hon. E. M. OBEID: I could speak all day about fishing.

The Hon. M. J. Gallacher: We know that.

The Hon. E. M. OBEID: If members of the Opposition would be quiet they might be wiser after they hear my answer. The Carr Government is committed to protecting our fish stocks and marine environment, and I am determined to ensure that this valuable resource is shared fairly by the whole community, including commercial and recreational fishers. Six months ago I released proposed new saltwater size limits and recreational fishing bag limits. From 1 November New South Wales will have some of the most conservation focused saltwater bag limits in Australia. I am advised that no other State or Territory has a general bag limit for species that are not subject to an individual bag limit. Our bag limits cover more species than Tasmania, Queensland, the Northern Territory and Victoria.

As a general rule, bag limits for individual species, particularly the more popular recreational species, are more conservative than any other State. In order to protect fish stocks and to ensure this resource is distributed fairly, recreational bag and size limits are reviewed every five years. By releasing the proposals six months ago we have given all stakeholders the opportunity to have their say about these new regulations. This is in addition to the original community consultation, which included distributing more than 63,000 discussion papers and questionnaires throughout New South Wales. I am pleased to say that we have continued to listen to the advice of the experts—our fishers.

I have today approved the latest advice from my advisory council on recreational fishing. The council recommended some practical adjustments to our original proposal. For the first time a bag limit will apply to sharks. Recreational fishers will now be allowed to catch a bag limit of only five sharks, of which only two can be wobbegongs. For the first time recreational fishers will have a bag limit of 10 litres of prawns. The Leader of the Opposition should make sure when he is on the Central Coast that he takes 10 litres of prawns only because he is bound to break the rules! This is a practical move to bring us in line with other States.

The New South Wales Government has been monitoring gemfish stocks for a number of years and, sadly, their numbers continue to decline. Earlier this year, acting on advice, I took measures to reduce the pressure on gemfish numbers, which will further extend protection. For the first time an aggregate bag limit of five will apply to deepwater species and up to two of these may be gemfish. That is because gemfish are a deepwater species and, once caught, they cannot be released back into the wild. Snapper is a popular species and its wild stocks are steadily declining. This Government has decided to ensure greater protection for this fishing favourite.

As a result of extensive consultation with both recreational and commercial fishers, the Government will increase snapper size limits from 28 centimetres to 32 centimetres. We need to increase the size of snapper because at 28 centimetres only a few, indeed less than 10 per cent of this species, are mature enough to breed; they are less than three years old. This means that if, for some reason, there is a poor breeding season, the fishery could be seriously threatened. The first stage in this protection plan is to increase snapper size limits to 30 centimetres, and that will come into effect from 1 July next year. Further consultation will take place before the second tier of that size limit is increased.

The community has also asked the Government to better protect dusky flathead breeding stocks. This means a three centimetre increase from 33 centimetres to 36 centimetres, again after 1 July next year, and will help breeding females to grow and reproduce. I thank all fishers who have contributed to this thorough review and who have helped develop some of the toughest laws in Australia to protect fish. Perhaps we will soon have to introduce laws to protect members of the National Party, if they keep behaving in this manner.

SNOWY RIVER WATER FLOW ECONOMIC IMPACT ASSESSMENT

The Hon. D. J. GAY: My question is to the Treasurer, Minister for State Development, and Vice-President of the Executive Council, in his capacity as Leader of the Government and representative in this Chamber of the Premier. Minister, in accordance with your Government's election promise and policy, have you insisted on a rural economic impact statement to assess what effect the proposed increase of the environmental flow of the Snowy River will have on water users and their communities in the Murray and Murrumbidgee Valley river systems?

The Hon. M. R. EGAN: The question probably more appropriately should have been addressed to my colleague the Deputy Leader of the Government, who, as all honourable members will be aware, has had carriage of the matter and, I must say, has done a superb job, as the recent announcement indicates. My understanding is that the Commonwealth Government is undertaking an environmental impact assessment. That is probably the only reason at this stage that the Commonwealth has not itself made an announcement.

The Hon. D. J. GAY: I ask a supplementary question. I was interested to hear about the environmental impact statement, but my question had nothing to do with an environmental impact statement. It was about the Government's election promise to have a rural economic impact statement on the proposal. Economic impact statements have to go before Cabinet, and if there was one, the Treasurer would have seen it.

The Hon. M. R. EGAN: As I intimated in my earlier answer, the Deputy Leader of the Government has had carriage of this matter, and therefore my colleague is intimately aware of the issues that the Deputy Leader of the Opposition raises. I invite the Deputy Leader of the Government to address the matter raised by the honourable member.

The Hon. J. J. Della Bosca: Now?

The Hon. M. R. EGAN: Whenever you like.

The Hon. J. J. Della Bosca: I will address it later.

ORAL CONTRACEPTIVES AND BREAST CANCER

The Hon. ELAINE NILE: I ask a question without notice of the Treasurer, representing the Minister for Health. Is it a fact that the journal of the American Medical Association, as reported in Thursday's *Daily Telegraph* and also on television, has reported a direct correlation between oral contraception and breast cancer? Is it a fact that users of oral contraceptives face an elevenfold risk of contracting breast cancer, especially if they have other family members who have had breast cancer, or if they used oral contraceptives prior to 1975? What action is the Health Department taking to warn women—especially women with a strong family history of breast cancer or who are otherwise at risk—of the risks in taking oral contraceptives?

The Hon. M. R. EGAN: I thank the Hon. Elaine Nile for her question. Breast cancer is of course a very important problem. By way of interest, I am sure the honourable member will be pleased to know that on my recent visit to Dubai I was informed by people whom I met there that a major campaign had been started in the United Arab Emirates to combat breast cancer. They were very proud of that. But that is by the way. I have not seen the article to which the honourable member referred, but there should always be some caution, in reading accounts in the daily press—

The Hon. Elaine Nile: The documentation is there.

The Hon. M. R. EGAN: I am not going to dispute the matter that the honourable member raises, or the correlation. I simply say that sometimes we should be very cautious about accounts in the popular media about medical research. A very good documentary some time ago, I think on the ABC, dealt with a study on this subject. But we have to exercise some caution when we read those media articles. Nevertheless, I will refer the question to the Minister for Health and obtain a considered response as soon as I can.

CENTRAL BUSINESS DISTRICT IMPROVEMENTS

The Hon. J. R. JOHNSON: My question is to the Treasurer, and Minister for State Development. Would the Minister give the House details on how companies from western Sydney are working to improve the appearance of the central business district of our triumphant Olympic city?

The Hon. M. R. EGAN: I thank the Hon. J. R. Johnson for his question.

The Hon. M. J. Gallacher: You missed the Olympics speeches on Tuesday.

The Hon. M. R. EGAN: Yes, but I think I did okay yesterday. The Hon. J. R. Johnson has raised an important issue. I am sure that most honourable members of this House would have noticed the Aurora Place office tower and apartment block on the corner of Macquarie and Bent streets, a magnificent city development designed by Renzo Piano. I am pleased to inform the House that a local western Sydney company built the glass wall that forms the stunning facade of the apartment block, which overlooks Macquarie Street and the Botanic Gardens. The construction of the glass louvered wall by the Huntingwood company Architectural Glass Projects is an outstanding engineering and aesthetic achievement. When an international team designs something as complicated as a glass facade it usually goes to an international company which it has worked with in the past. However, the team found a western Sydney company with the technical skill and the resources to manufacture the wall here.

It is a tribute to Architectural Glass Projects and the construction company Bovis Lend Lease that the work stayed in Australia rather than going offshore. Manufacturing companies in western Sydney are consistently winning big contracts to supply building and other materials to major construction jobs. Manufacturing exports from western Sydney are forecast to double in the next five years, to almost \$3.5 billion, creating thousands of new jobs. Last year the 72,000 businesses in western Sydney turned over some \$52 billion. This is expected to grow to \$61 billion by 2005. That \$52 billion, the turnover of businesses in western Sydney, is greater than the gross domestic product of most nations in our region. Western Sydney alone is an economic powerhouse. I congratulate Architectural Glass Projects on the work it has carried out at Aurora Place, and I wish the company all the best for the future. This success clearly shows that the company has a tremendous capacity to export its products, because they are simply the best in the world in their category.

INTERNET GAMBLING

Reverend the Hon. F. J. NILE: I ask a question without notice of the Special Minister of State, representing the Minister for Gaming and Racing. Is it the fact that the Howard Government's important legislation to prohibit online Internet gambling was defeated in the Senate this week, by only one vote, by the combined votes of the Australian Labor Party, the Greens, the Australian Democrats and One Nation senators? Is it a fact that the New South Wales Government is considering whether to issue online Internet gambling licences in order to raise millions of dollars in revenue? Is it true that the growth of online Internet gambling—on sites which are virtually cyber casinos—will have devastating social effects on problem gamblers and will have an adverse effect upon their families because the anticipated Australian revenue is \$3.6 million by 2001 and worldwide revenue will be \$15.6 billion within two years? What will the State Government do to stop the growth of these unregulated Internet gambling sites? Will the Government take action to ban online Internet gambling in New South Wales altogether before the powerful organisations, such as Mr Kerry Packer's Ecorp, Tattersalls, Lasseters, et cetera, set up their money-making cyber casinos?

The Hon. J. J. DELLA BOSCA: I think it was Machiavelli who said that with every great improvement in history great problems are created.

[Interruption]

I am careful now because of the nasty things which the honourable member said about me, which were not true. Reverend the Hon. F. J. Nile raised the issue of cyber gambling. The emergence of the Internet has created a new category of social problems. I am sure that the abuse of cyber gambling will be one of those problems, as well as a range of other personal problems and difficulties on the Internet which, no doubt, exist because—

[Interruption]

I was going to deal with the question asked by Reverend the Hon. F. J. Nile, which required me to reflect or comment on the affairs of the Federal Senate. I occasionally follow national politics and I occasionally have cause to refer to events in the Senate. I am not aware of the specific motives of those senators who voted against the Federal Government's legislation regarding this matter, but I have a great deal of respect for the opinions and the judgment of many of those who did. I note for the record that amongst those who voted against

the legislation were a large number of Labor senators, whose opinions and judgments I highly respect. I think two Australian Democrat senators had a different view. I do not know whether the One Nation senator is still a member of One Nation. It is a little hard to know.

[Interruption]

I was going to talk about some of those things. I am almost certain—and Reverend the Hon. F. J. Nile will correct me if I am wrong—that Senator Harradine from Tasmania, a person whose opinions on such matters I respect, also voted with the Labor and Democrat senators.

Reverend the Hon. F. J. Nile: And Senator Bob Brown of the Greens.

The Hon. J. J. DELLA BOSCA: Reverend the Hon. F. J. Nile said that Senator Bob Brown also voted with those senators. A diverse group of people voted against the legislation. They must have had a good reason. They have diverse views and they brought that good judgment to bear.

Reverend the Hon. F. J. NILE I ask a supplementary question. I am sorry that the Assistant Treasurer got sidetracked. However, would he answer my question, making reference in particular to the plans of the Government and the Treasurer?

The Hon. J. J. DELLA BOSCA: I will obtain as soon as possible an answer from the Minister in the other place to that aspect of the honourable member's question.

SENIOR EXECUTIVE SERVICE REMUNERATION

The Hon. PATRICIA FORSYTHE: My question without notice is directed to the Treasurer, and Vice-President of the Executive Council. Given the failure of the Government to honour the Premier's promise to reduce the senior executive service [SES] by one-third and the new potential for senior bureaucrats to boost their income through the latest Statutory and Other Officers Remuneration Tribunal determinations, will the Treasurer ensure transparency of public expenditure by ordering government agencies and departments to publish the total payments to each SES officer in their annual reports?

The Hon. M. R. EGAN: I announced only a couple of weeks ago—

[Interruption]

No, the Government removed bonuses for members of the senior executive service within—

[Interruption]

No. I certainly would not agree with any proposition, if this is what the honourable member is putting, that members of the New South Wales public service in the higher echelons in some way are overpaid. If one compares remuneration of those at a senior level in the public sector—and I think the honourable member is indicating that she agrees with me—with the remuneration that their counterparts get in the private sector, one sees that they pale into insignificance. It often concerns me when we see published comparisons of top public sector wages with private sector wages—and on this point the Leader of the Opposition is agreeing with me—as it provides ammunition for the headhunters.

The Hon. J. J. Della Bosca: And a brain drain.

The Hon. M. R. EGAN: And a brain drain.

The Hon. Patricia Forsythe: Private sector people get their remuneration in their annual reports.

The Hon. M. R. EGAN: That is why I announced two weeks ago that the Government will be publishing all that information. That is what we are doing.

MINE ACCIDENT INVESTIGATION UNIT

The Hon. A. B. KELLY: My question without notice is directed to the Minister for Mineral Resources, and Minister for Fisheries. What is the Government doing to promote awareness of the mine accident investigation unit?

The Hon. E. M. OBED: The Government is working to ensure that our mines are always safe. The mine accident investigation unit, which was established last year, is a major part of this Government's commitment to mine safety in New South Wales. I have said many times in this House that the Government is committed to improving mine safety. It has allocated almost \$14 million in additional funding to improve mine safety. That money is being used to improve safety in mines and quarries and to implement the recommendations of the mine safety review and the Gretley inquiry. The investigation unit was set up at the recommendation of the mine safety review. The unit investigates all deaths and mining accidents, such as explosions and flooding. It is the first of its kind in Australia. Its objective is twofold. First, the unit helps to ensure that major investigations are carried out with a clear absence of conflict between the day-to-day duties of inspectors and their investigative responsibilities.

Prior to the establishment of the unit a mines inspector could potentially investigate incidents in mines for which they were responsible. Second, it provides essential information to maximise safety information gathered during the investigations. I am pleased to be able to say that the unit is already providing valuable information to industry. Its latest venture is a new brochure entitled "Investigations Unit—a new initiative in mine accident investigation and prevention." The brochure is an important tool in informing industry about the Government's commitment to improving mine safety and protecting mineworkers. This new publication will be widely distributed within industry from this week onwards. There is no room for complacency in mine safety. One fatality or one injury is one too many. Industry must understand, as does the community, that it has a duty to protect its workers. The Government will be active in ensuring that that happens.

INLAND MARKETING CORPORATION FEDERAL GOVERNMENT GRANT

The Hon. D. E. OLDFIELD: My question without notice is directed to the Treasurer. Is the Treasurer aware that a major launch for the Inland Marketing Corporation [IMC], based in Parkes, took place on 11 September? Is he also aware that the Inland Marketing Corporation, which is supported by a wide-ranging rural industry and 53 local councils, has been granted \$4.5 million by the Federal Government on the basis of an equivalent grant from this Government? Is the Treasurer aware of the importance of these grants to rural New South Wales? The IMC, after being let down by this Government, is now left to struggle in a much diminished capacity on the basis of only a Federal grant—and even those funds became available only because the Federal Government had the decency to change the requirement of its grant being linked to the grant which failed to materialise from this Government. Why did this Government not match the Federal grant as expected? What is Country Labor's stand on this issue and what level of influence does it have in this Government? Does this Government have any interest in the IMC development? If so, what will this Government now do to assist the IMC development in Parkes?

The Hon. M. R. EGAN: I am surprised that the honourable member is still in this House. I thought he had been expelled from One Nation. He was, of course, elected as a One Nation candidate.

[Interruption]

I am not suggesting that either of them should be removed from the House. There is a great difference between the Hon. Helen Sham-Ho and the Hon. D. E. Oldfield. The Hon. Helen Sham-Ho, through experience and observation, realised that the Liberal Party of New South Wales was a complete and utter fraud. In the case of the Hon. D. E. Oldfield, the member's own party has declared that he is a complete and utter fraud. So it seems to me—

The Hon. D. E. Oldfield: Point of order: I am sure that the Treasurer understands that we are all very interested in what he is saying but it has nothing to do with my question. The Treasurer might happen to know—or if he does not, he might wish to be informed—that I am the registered officer of One Nation according to the Electoral Commission in this State, and it will be me rather than Pauline Hanson who determines my membership of this division.

The Hon. M. R. EGAN: It is a very funny party when one can be the registered officer of a party from which one has been expelled. Not even Billy Hughes would have claimed such a thing.

The Hon. I. Cohen: It is the sort of party you like. You can be the registered officer, the president and the treasurer and run the whole show yourself. It fits in with your philosophy.

The PRESIDENT: Order! The Hon. D. E. Oldfield has made what amounts to a personal explanation, which would probably have been better dealt with under the Standing Order 70 procedure. However, I will warn the Premier—I am sorry, the Treasurer—that calling someone a fraud almost amounts to using unparliamentary language. However, the Minister may proceed. There is no point of order.

The Hon. M. R. EGAN: Madam President, the day when you warn the Premier is a day that I look forward to. Let me assure you that I was not calling the honourable member a fraud; I was saying that One Nation had declared him to be a fraud, and something else. I forget what the something else was. We would all like to be members of a political party that had a huge membership but in which we had the sole vote. I do not deny that. The Australian Labor Party would be much better off if I had the only vote, but that will never be the case. It is a great democratic party and consists of more people than just me.

Reverend the Hon. F. J. Nile: What about your administration committee?

The Hon. M. R. EGAN: I have never been to a meeting of the administration committee. How many are on the administration committee?

The Hon. J. J. Della Bosca: Thirty-two.

Reverend the Hon. F. J. Nile: They overrule the membership.

The Hon. M. R. EGAN: They have certain constitutional functions within the party and they have responsibilities when the conference is not meeting, which they perform very well. It is a very good organisation. In all the time that it has been in operation, which now goes back to about 1979, I do not think that I have ever been at odds with it.

The Hon. Janelle Saffin: Why would you be at odds with it? It is your group.

The Hon. M. R. EGAN: Some members may have had problems with it. I hope that they continue to have problems with the decisions of the administration committee, because they are decisions that I invariably agree with.

The Hon. M. J. Gallacher: Is there a no button or is it just a yes button?

The Hon. M. R. EGAN: There are no buttons.

The Hon. D. J. Gay: Did you throw out Peter Woods?

The Hon. M. R. EGAN: Who threw out Peter Woods? It was the Special Minister of State. I can remember that when I joined the Australian Labor Party in 1964 an old-timer came up to me at a branch meeting and said, "Son, you are not a real member of the Labor Party until you have been expelled at least twice." Things have changed in the Labor Party.

The Hon. J. J. Della Bosca: We do not readmit them.

The Hon. M. R. EGAN: That is right: we do not readmit them any more. Back in those days it was not uncommon. I think that Ben Chifley was probably expelled once or twice, certainly from Lang Labor. I would be surprised if there were too many members of the McKell Government who had not been expelled from the Labor Party at some stage. But those days are behind us. Let me get back to the question. I congratulate the councils of the shires of Parkes, Lachlan, Forbes and Cabonne on developing the IMC. I might point out to the House that the Government provided some \$700,000 to help the IMC build a business case for its operation. I was personally involved in the decisions to provide that \$700,000. We provided that money at a time when the Federal Government would not consider the project at all.

I congratulate the Federal Government on its support for the Inland Marketing Corporation. As I said, we have been very supportive of the IMC since it began five years ago. I believe that our \$700,000 played a very significant part in helping the IMC to secure Federal funding. The IMC is able to apply to receive funding from a variety of State government business programs. Obviously, the applications for funding have to be relevant to the guidelines of those programs. There are quite a number of programs under which the IMC would be eligible for funding, and either I or one of my colleagues—I am not sure who signed the letter; it may well have been me—pointed out to the IMC the variety of programs under which it could apply for assistance.

It is not just a matter of organisations, however worthy, saying that they would like some money from the Government. That is not the basis on which assistance is provided. They have to establish a case. They have to say what the money is wanted for. They cannot just say that they have a superb idea and ask for \$1 million or

\$10 million. They have to establish what the money is going to be used for. We have a variety of programs that are ready to assist applicants that meet the criteria and the guidelines. I have no doubt that in the coming months or years those programs will be utilised by the IMC.

The Hon. D. E. OLDFIELD: I ask a supplementary question. May I take it from the Treasurer's answer that he is saying that the Inland Marketing Corporation failed to appropriately substantiate its case for funding and that he decided that it did not have a case and therefore did not match the \$4.5 million which was supplied by the Federal Government, which has six States and two Territories to look after, whereas the Treasurer has this in his backyard, his State, which is the only State that he needs to take care of?

The Hon. M. R. EGAN: I am not aware of what the IMC is seeking additional funding for from the State Government. As I pointed out earlier, it is one thing for an organisation in the State to say that it wants money, but for that request to be considered the Government needs to know what the money is to be applied to. I am reminded that all the New South Wales Government has is a letter to the Premier asking for funds to match those provided by the Commonwealth. That is all we have.

REGIONAL TOURISM FUNDING

The Hon. R. H. COLLESS: My question is to the Special Minister of State, representing the Minister for Tourism. Is it a fact that the latest information shows a 50 per cent decline in regional tourism for last month? Is it also a fact that the Government's response to these alarming figures has been to allocate funding to new tourism promotions for the Sydney area? Will the Minister give a guarantee to this House before the conclusion of question time today that funding for regional tourism will be boosted and maintained in light of the figures showing a drop in country tourism?

The Hon. J. J. DELLA BOSCA: The Government is lucky because it has an outstanding and energetic tourism Minister in the form of the Hon. Sandra Nori, who represents the Government with a great deal of ability and skill. She is ideally placed to capitalise on the opportunities created by the Olympics that have been outlined by the Treasurer.

[Interruption]

The Hon. D. J. Gay should listen to my answer. He is always sounding off about things without listening. As I said, we have a Minister who is ideally placed to capitalise on the State becoming a gateway for tourism for the nation. The thrust of the honourable member's question is based on a false premise. He may be forgiven for that, because he has been here only a short time.

The Hon. M. J. Gallacher: So have you.

The Hon. J. J. DELLA BOSCA: I have been here longer than him.

The PRESIDENT: Order! I cannot hear the Minister's answer.

The Hon. J. J. DELLA BOSCA: Because the Government's Olympic proposals, planning and budgeting were so advanced, it was able to put together a program that provided an Olympics that excited the world's imagination about Sydney, New South Wales and Australia. It did all those things at once, in a way no other Government in the modern Olympic era has been able to do. It is self-evident that the honourable member's question is based on a false premise. The Government has been working hard for months and months. The other day the Treasurer and the Premier addressed a business forum which I was privileged to attend. They explained the ways the Government planned to capitalise on opportunities to enhance business and, more particularly, tourism outside of Sydney. I am sure that the Minister for Tourism will be able to capitalise on all those opportunities, not only in the short term but well into the future.

The Hon. R. H. COLLESS: I ask a supplementary question. I again ask the Minister: Is it a fact that the latest information shows a 50 per cent decline in rural tourism? The Minister did not answer that part of the question.

The Hon. J. J. DELLA BOSCA: I will refer that aspect of the honourable member's question to the Minister for Tourism and I will get an answer as soon as possible.

The Hon. M. R. Egan: Is the Hon. R. H. Colless talking about the past month?

The Hon. R. H. Colless: Yes.

The Hon. M. R. Egan: Where do you think people in the bush went in the past month? They came to Sydney for the Olympics. What a clot!

MOTOR ACCIDENTS AUTHORITY PARALYMPIC TORCH RELAY SPONSORSHIP

The Hon. J. HATZISTERGOS: My question is to the Special Minister of State. Will the Minister advise the House how the Motor Accidents Authority has utilised its sponsorship of the Paralympic torch relay?

The Hon. J. J. DELLA BOSCA: With the euphoria of the Olympics still with us, we are about to embrace the Paralympics. As the Leader of the Government pointed out, many people from regional New South Wales and interstate travelled to Sydney during the Olympics. That is a short-term aspect of the Olympics. In the long term, the Olympics and the Paralympics will be great international events that will showcase the beauty of Sydney, the surrounding regions and the whole nation. Judging by ticket sales and media coverage, the Paralympics too will be spectacular and immensely popular. The presence of the Paralympic torch in New South Wales from yesterday until the lighting of the cauldron next Wednesday, 18 October, will play a huge role in the lead-up to the Paralympic Games.

Some two years ago the Motor Accidents Authority of New South Wales undertook to sponsor the Paralympic torch relay. The relay is a great boost for the Games as well as for the Motor Accidents Authority. I was privileged to attend the lighting of the Paralympics flame in Canberra on 5 October. The torch then began an 11,500 kilometre journey across Australia. It has now reached New South Wales. The torch will be carried some 750 kilometres from the greater Sydney region and the centres of Wollongong and Newcastle before the lighting of the cauldron at the Olympic Stadium.

The Hon. M. R. Egan: Are you carrying it?

The Hon. J. J. DELLA BOSCA: No, I am not, because I am the Minister and the sponsor, and I think I should give other people the chance.

The Hon. M. R. Egan: I would like to run with it.

The Hon. J. J. DELLA BOSCA: You have left your run a bit late. I will make inquiries, but I think you have left your run a bit late. You would be an excellent torch carrier.

The Hon. M. R. Egan: I would run with it too, I wouldn't just walk along.

The Hon. J. J. DELLA BOSCA: I think we will run into a time problem, but I will check it out. The route has been devised to maximise community attention and involvement. Some 950 torch bearers will carry the flame for distances of between 500 metres and one kilometre. The relay will be conducted between eight and 10 hours per day. In New South Wales the torch will pass through or nearby more than 200 cities and towns with a total population of 4.3 million. In each area there will be places where the torch will stop for community celebrations. In my own area, the Central Coast, celebrations for the torch's arrival will be held on Sunday at Memorial Park, The Entrance.

The Hon. M. R. Egan: Will you be there?

The Hon. J. J. DELLA BOSCA: I hope to be. I have a wedding and another commitment. I am talking to the mayor this afternoon about my availability. I note that it is in the city of Wyong. The Leader of the Opposition is always concerned that Wyong shire is not getting as much attention as it should.

The Hon. M. J. Gallacher: Have you been there?

The Hon. J. J. DELLA BOSCA: I have been there on many occasions. It is a very nice place.

The Hon. J. R. Johnson: It is served by an outstanding member.

The Hon. J. J. DELLA BOSCA: It is served by an outstanding local member as well. I have the privilege of being invited by the Mayor of Wyong, Fay Brennan, to the torch's community celebration. A huge

crowd is expected on the coast to mark this unique and historic event. The Motor Accident Authority's partnership with the Paralympics began more than two years ago. Since July 1997 the Motor Accident Authority's Paralympian program has had 19 elite athletes deliver the road safety message: You only get one body—drive safely! This has been done in face-to-face presentations. Each of these athletes has a story to tell about injuries they suffered in motor vehicle accidents. The idea of this campaign is to dispel the myth that is very common among young people: it will not happen to me.

Through this sponsorship the Motor Accidents Authority will intensify its road safety education in the lead-up to the Games. The Motor Accidents Authority, in association with the Sydney Paralympic Organising Committee, the Department of Education and Training, the police and local government road safety officers, has developed education programs identifying critical road safety messages relevant to the areas on the route. The torch will be accompanied on its journey by vehicles carrying the Motor Accidents Authority message. In addition, the Motor Accidents Authority has developed an extensive web site—www.maa.nsw.gov.au—with details of the torch relay and the Motor Accidents Authority's own message. As with the Olympics, the Paralympics will be an unforgettable event. I am proud of the Motor Accidents Authority's sponsorship and, like all members of this House, I am proud to be associated with these coming Games. For the third or fourth time in recent days, I wish the athletes well for the Games.

PRIVATE SCHOOLS FUNDING

Ms LEE RHIANNON: I direct my question to the Special Minister of State, representing the Minister for Education and Training. Given that the Government has now joined with the overwhelming majority of the community in voicing its opposition to the Federal Government's outrageous and damaging socio-economic status [SES] funding model for private schools, can the Minister explain to the House how this opposition will be more than just rhetoric? Will the Government, if the SES legislation is passed, cut its contribution to wealthy private schools? Will the Minister redirect his annual \$0.4 billion of State aid to private schools to cancel out those aspects of SES funding that do the greatest damage to public education? Will the Government repeal section 21 of the New South Wales Education Act, which grants private schools per capita State funding at 25 per cent of the average cost of educating a child in public education?

The Hon. J. J. DELLA BOSCA: I am anxious that we do not go back to the bad old days of sectarian arguments. I will not rise to the bait in the second part of Ms Lee Rhiannon's question. On Sunday 13 August Dr Kemp accused New South Wales of not increasing State funding to government schools. Dr Kemp claimed that Commonwealth assistance to government schools has increased by 4.3 per cent per annum, compared with the New South Wales budget increase of less than 2 per cent. I can tell the House that Dr Kemp's claim is a clear misuse of statistics. That is not the only thing he misuses, but it is a clear misuse of statistics, aimed at diverting attention from his withdrawal of support for public schooling under the enrolment benchmark adjustment scheme [EBA].

The State Government provides 90 per cent of all funding for New South Wales government schools. The facts are that expenditure per public secondary school student in 1998-99 was \$6,753, the highest per capita figure in the history of public education in this State, and an increase of 15.4 per cent since 1995-96. For primary school students the figure was \$5,121, an increase of 21.2 per cent since 1995-96. These increases are in stark contrast to the Commonwealth's approach to public education as shown by the EBA. Commonwealth budget papers show that when the EBA is taken into account Commonwealth funding for government schools will actually reduce by 2 per cent by 2004. Between 1998 and 1999 in New South Wales the average cost per primary school student in a government school rose by 10.3 per cent. In response, the Commonwealth lifted its contribution by around half of that amount, or 5.5 per cent.

[Interruption]

The Hon. Dr B. P. V. Pezzutti did not listen, so I will say it again. Between 1998 and 1999 in New South Wales the average cost per primary school student in a government school rose by 10.3 per cent. In response, the Commonwealth lifted its contribution by around half that amount, or 5.5 per cent. Total spending on education and training in New South Wales is also at record levels. In the 2000-01 budget the Carr Government has increased recurrent spending for the education and training portfolio to \$7.2 billion

The Hon. M. R. Egan: What?

The Hon. J. J. DELLA BOSCA: By \$7.2 billion. That is how generous you are. I am sure the Treasurer will agree that it is a very critical area of government spending. That was an increase of almost

\$320 million on 1999-2000 levels, and \$1.4 billion or 25 per cent more since 1994-95. In general terms I applaud all members of the House who continue to stand up for public education. I am disappointed with honourable members opposite—

The Hon. M. R. Egan: You are not applauding Lee Rhiannon?

The Hon. J. J. DELLA BOSCA: No. I said I applaud all honourable members who stand up for public education.

The Hon. M. R. Egan: Except Lee Rhiannon.

The Hon. J. J. DELLA BOSCA: Let me get to my point because I am putting her in the same category as members on the other side of the House. It is very important that we do not go back to the bad old days when there was no social cohesion and consensus about these issues. The interjections from honourable members opposite indicate that people are again making the big mistake of engaging in wedge politics. They want to drive a wedge between people. It is bad enough that we have to put up with wedge politics played by those on the other side in respect of reconciliation. We now have to go back to the bad old sectarian days, thanks to the Liberal and National parties, and, I regret to say, Ms Lee Rhiannon.

AMBULANCE SERVICE COMMUNICATION NETWORK

The Hon. JENNIFER GARDINER: My question is to the Treasurer, and Vice President of the Executive Council, representing the Minister for Health. Will the Minister give an unqualified assurance that the New South Wales Ambulance Service communication network is completely reliable, in light of a tragic incident involving a suspected heart attack victim at Brierfield on the North Coast on 14 July this year when an ambulance took over an hour to complete a 10-minute trip because contact was lost with the driver? Is it of concern that there continue to be problems with the Ambulance Service's capacity to accurately pinpoint the location of incidents in country areas? What is the Government doing to eliminate these problems, as far as humanly possible?

The Hon. M. R. EGAN: I am not aware of the matter, nor am I aware of the problem to which the honourable member has referred. However, I will be happy to refer her question to the Minister for Health for his response.

YOUTH ACCESS TO PUBLIC SPACE

The Hon. JANELLE SAFFIN: I direct my question without notice to the Minister for Juvenile Justice, and Minister Assisting the Premier on Youth. Will the Minister outline recent Government activity that addresses the issue of young people and public space?

The Hon. CARMEL TEBBUTT: The issue of public space impacts on the whole community. We all want to be able to access parks, town squares, main streets and shopping centres, but different groups within the community use public space differently. Young people are no different in their desire to access public space. In many ways they have a greater need to access public space because very often they are excluded from other venues because of their age or income status. However, they do use public space in a particular way. The Government, through the New South Wales youth policy, has worked hard to improve youth access to public space and facilities, to ensure that the rest of the community has an understanding of the desire and need of young people to use public space, and to ensure that young people are responsible in the way they use public space and mindful of the needs of other members of the community.

Some of the initiatives include the release of urban design guidelines with young people in mind. The guidelines are a practical outcome following a youth forum in Port Macquarie. They seek to provide information to local planners, shopping centre designers and local councils on how public facilities can be constructed to reflect the needs of young people. In August the Department of Local Government held a day to develop indicators to assess the success of their social plans. One of the seven target groups in the plans was young people. Identification of and consultation with young people is a critical factor in the development of more youth-friendly spaces. I have recently met with representatives of the New South Wales Shires Association to look at ways that local and State governments can work together to meet the needs of young people in smaller communities who share some of the same needs and concerns of young people across the State, but also have particular issues that they are dealing with.

I should like to inform the House of another important scheme that deals with young people and public space. The Western Sydney Area Assistance Scheme provided a grant of \$62,825 to employ a youth worker to address young people's public space needs with a view to reducing the level of conflict between young people, public space managers and others. It is a three-year project based in Parramatta with the Youth Action and Policy Association. I am also having ongoing discussions with the New South Wales Shopping Centre Council to look at opportunities for relevant Government agencies to work with the New South Wales Shopping Centre Council regarding young people and privately managed shopping centres.

I am pleased to inform the House that the Government has provided support to the Western Sydney Regional Organisation of Councils [WSROC], which will be holding a conference early next year, entitled, "Whose Place? Public Space for Young and Old in Western Sydney". I congratulate WSROC because I believe that it has identified the fact that many of the issues regarding access to public space are similar for both young people and older people. I regard it as innovative that it has brought two groups together to talk about these issues of public space. That is often particularly the case in shopping centres and, I suppose, privately managed public space. The conference will bring together local councils, shopping centre managers, young people and older people to look at the issues of public space, and to examine the way access for these groups can be improved. The Government listens to young people and is continuing to respond to their concerns. I look forward to reporting to the House on further progress around public space issues.

DISABILITY SUPPORT PENSION ELIGIBILITY

The Hon. HELEN SHAM-HO: My question without notice is directed to the Minister for Juvenile Justice, representing the Minister for Disability Services. I refer the Minister to a recent report released by the Multicultural Disability Advocacy Association of New South Wales entitled "Less Talk, More Action". Is the Minister aware that in Australia immigrants with disabilities have to wait 10 years before they are eligible for the disability support pension, which is the usual entry criteria for essential disability services, such as the Post-school Options program, Home and Community Care program and program of Appliances for Disabled People. Given that 24 per cent of all people with disabilities living in New South Wales are from non-English speaking backgrounds, will the Minister advise what action is being taken, or will be taken, at State level to make disability support services more accessible to people with disabilities from non-English speaking backgrounds?

The Hon. CARMEL TEBBUTT: I am not aware of the report that the Hon. Helen Sham-Ho has referred to. The issue of a disability support pension and access to it is an issue for the Federal Government. However, the honourable member has asked how that impacts on entry requirements for programs that are run by the State. I will refer her question to the Minister for Disability Services and undertake to obtain a response as soon as possible.

GLENBROOK RAIL ACCIDENT INQUIRY BUDGET

The Hon. J. H. JOBLING: My question is to the Minister for Mineral Resources, representing the Minister for Transport. How much of taxpayers' money has been wasted since March on the 11 barristers engaged by the Government to attend the McInerney inquiry and protect rail authorities rather than ensure that the judge gets to the truth about why our rail system is unsafe? In view of Acting Justice McInerney's two critical and caustic comments about the performance of the barristers and their lack of assistance to the court, will the Minister tell the House how many hundreds of thousands of dollars have been expended to date on legal fees by the rail authorities or the Government? What is the budget for legal costs, in hundreds of thousands of dollars, expected to be for the total inquiry?

The Hon. E. M. OBEID: I have no doubt that, having read the reports of what Justice McInerney had to say, we are all concerned. I am sure my colleague in the other House is just as concerned and will take the appropriate action. As to the figures and costs, I will attempt to get that information from my colleague and provide the honourable member with an answer.

SYDNEY MEDIA CENTRE

The Hon. H. S. TSANG: My question is directed to the Treasurer, and Minister for State Development. Will the Minister inform the House about the role the Sydney Media Centre played in promoting New South Wales to the international media during the Olympic Games?

The Hon. M. R. EGAN: As honourable members are aware, the Sydney Media Centre provided non-accredited journalists—in other words, those not here to specifically cover the Games—with facilities and

information to help them file news reports. The centre, which was the first of its type at any Olympic Games, was a joint venture between the New South Wales Government and the Commonwealth Government, and I appreciate the involvement of Commonwealth agencies in it. To get the most out of staging the Games, it was critical that we provided services to support the non-sports media. This is something that Atlanta did not do and as a result it suffered a deluge of media critical of the city and critical of the Olympic preparations. We were not going to let that happen here.

The Sydney Media Centre became the hub for non-accredited journalists. More than 5,000 members of the media took advantage of the many services offered by the centre. Along with workstations, computers and phones, the centre boasted a 500-seat press conference venue, image library, interview room, information desks, travel agency, bar and restaurant. Of the many services available to journalists, one of the most valued was the folder of some 300 story leads. Stories ranging from making sake in Penrith to digging opals in western New South Wales were laid out with contact details and story angles. Between 1 September and 1 October the media centre recorded 55,276 visits by journalists looking for non-sports information—an average of 1,783 visits a day.

Almost half the media registered were international. They came from Beijing, Tokyo, New York, Taipei, Atlanta, Stockholm, London, Oslo, Auckland and most places in between. Some of the world's leading business, sporting, political and arts people also used the media centre for press conferences. Nelson Mandela, Bill Gates, Andrea Bocelli, Michael Johnson and our own Pat Rafter all acknowledged the success of the centre. The tourism and business benefits from the success and goodwill generated by the media centre and overall media strategy will be long term. Money could not buy the sort of positive media coverage received by New South Wales over the past few weeks.

RURAL COMMERCIAL RADIO STATIONS OWNERSHIP

The Hon. J. S. TINGLE: My question without notice is addressed to the Treasurer, and Leader of the Government in the absence of the Minister for Mineral Resources, and Minister for Fisheries, representing the Minister for Local Government, Minister for Regional Development, and Minister for Rural Affairs. Is the Minister aware of the growing dissatisfaction amongst rural communities about the centralisation of ownership of commercial radio stations broadcasting in country areas? Does the Minister realise that with most country stations now concentrated in the hands of a very small number of companies, essential radio services, which country areas depend on, have been depleted, jobs have been lost and daily operations have been reduced to a shoestring level? Has the Minister heard what purports to be a national news service carried by stations on the North Coast owned by the London Daily Mail Group? Is it true that these so-called news services originate from something called a hub at Albury, that there is no distinction between New South Wales and Victorian political matters, and that local matters are largely ignored? Will the Minister seek an assessment of the loss of jobs, loss of vital information services and loss of community identity inflicted on the country radio stations by this uninterested overseas ownership? Will he take the matter up with the Federal Government with a view to restoring the proper radio services that country people need and deserve?

The Hon. M. R. EGAN: I am not aware of the issues raised by the honourable member, but some of the information he has given to the House in his question, if accurate, would certainly be of concern. I will refer his question to the appropriate Minister, although I must point out that communications policy is a Federal responsibility and I understand that the Federal Government does not always fulfil its responsibility satisfactorily. However, I will refer the honourable member's question to the appropriate Minister in New South Wales.

DEPARTMENT OF GAMING AND RACING STAFFING

The Hon. J. M. SAMIOS: My question is addressed to the Special Minister for State, representing the Minister for Gaming and Racing. At a time when there is serious concern about the level of criminal activity associated with gambling, why is the Carr Government continuing to slash the strength of the Department of the Gaming and Racing, with as many as 100 employees currently earmarked for redundancy?

The Hon. M. R. EGAN: As I indicated earlier, honourable members who have questions for other Ministers might like to place them on the notice paper or wait until the next sitting day to ask them. However, I am anxious to answer questions addressed to me in my own capacity, and that is why I am still here. I have been told that the Deputy Leader of the Opposition has a question for me, and I am awaiting it with great interest.

TREASURER, AND MINISTER FOR STATE DEVELOPMENT CROOKWELL VISIT

The Hon. D. J. GAY: Does the Treasurer, Minister for State Development, and Vice-President of the Executive Council recall that on numerous occasions I have informed this House that he has not been to Crookwell? Crookwell Shire Council has written to me asking me to invite an important Government Minister to attend Crookwell during April of next year. Will the Treasurer accept that invitation, which would enable him to say that he has actually been to Crookwell?

The Hon. M. R. EGAN: As I have told the House on many occasions, when I went to Crookwell the Deputy Leader of the Opposition was not to be seen. In fact, no-one had heard of him. I am prepared to go back to Crookwell to see if I can find someone who actually knows him. So if the honourable member is inviting me to Crookwell some time in April I will accept his invitation, so long as he provides me with a bed for the night.

INTERNET GAMBLING

The Hon. M. R. EGAN: Reverend the Hon. F. J. Nile asked a question about Internet gambling, and my colleague the Special Minister for State has provided the following response:

At the inaugural meeting of the Ministerial Council on Gambling in Canberra on 19 April 2000 the Commonwealth signalled its desire to have a 12-month moratorium on Internet gambling. At that meeting the Minister, supported only by the Western Australian Minister, indicated New South Wales support for such a moratorium. The Premier, by a news release dated 2 May 2000, emphasised that New South Wales was the only State which had provided 100 per cent support to the Federal Government's push for a year-long moratorium.

By a media release on 19 May 2000 the Commonwealth announced that it was actively examining legislation to impose a 12-month moratorium on the introduction of new interactive gambling services. Further, any such Commonwealth law would have effect from 19 May 2000. The Commonwealth also indicated that prior to commencing the drafting of legislation it would be seeking the views of the States and Territories regarding the nature and scope of the moratorium.

ROADS AND TRAFFIC AUTHORITY CHIEF EXECUTIVE OFFICER

The Hon. M. R. EGAN: On 7 September the Hon. R. S. L. Jones asked me a question without notice relating to the Roads and Traffic Authority's chief executive officer. The Minister for Transport, and Minister for Roads has provided the following response:

I totally reject the baseless, cowardly attacks on public servants doing their jobs by the Hon. R. S. L. Jones and express my full confidence in Mr Paul Forward as CEO of the RTA.

OLYMPIC GAMES TRANSPORT

The Hon. M. R. EGAN: On 7 September Reverend the Hon. F. J. Nile asked me a question without notice relating to Olympic Transport. The Minister for the Olympics has provided the following response:

There were some initial minor problems with transport for athletes but these were quickly resolved and athlete and all other transport operated excellently during the Olympic Games period.

OLYMPIC GAMES TICKETS

The Hon. M. R. EGAN: On 7 September the Deputy Leader of the Opposition asked me a question without notice relating to Olympic tickets. The Minister for the Olympics has provided the following response:

To allocate and record sales of more than 7.5 million tickets, SOCOG used a system called ProTix which operates on hardware located in the SOCOG main building. Online seat allocation is only possible through box office outlets linked to the SOCOG main ticketing computer. The volume of business for the Olympics and Paralympics meant it was not economically feasible to open separate box offices in centres outside Sydney, except for Newcastle and Wollongong. Although Ticketek provided staff in support of SOCOG's ticketing functions, the ProTix system could not be accessed from the Ticketek system and therefore the use of Ticketek agencies was not feasible.

The honourable member is incorrect in asserting that Olympic tickets were not available through the ticketing hot line. The only Olympic tickets not made available through the call centre were late releases of limited-stock tickets for swimming, track cycling and the opening ceremony. In all of these cases the number of tickets was so small that making them available through the call centre would simply have jammed telephone lines. The fact that these tickets would be available only at box offices was advertised in advance, so that people wanting these tickets could arrange for friends to obtain them.

Tickets for swimming, track cycling and the opening ceremony had already been made available in the public offer last year as well as the offer through News Limited newspapers in May 2000.

Questions without notice concluded.

[The President left the chair at 1.10 p.m. The House resumed at 2.30 p.m.]

JOINT STANDING COMMITTEE UPON ROAD SAFETY**Report**

The Hon. A. B. Manson, on behalf of the Chairman, tabled report No. 3/52 entitled "Staysafe 51 Review of the Road Safety Situation in New South Wales in 1998", dated September 2000, which incorporates edited transcripts of evidence and certain submissions received.

Ordered to be printed.

BUSINESS OF THE HOUSE**Suspension of Standing and Sessional Orders****Motion by the Hon. J. S. Tingle agreed to:**

That standing and sessional orders be suspended to allow the moving of a motion forthwith that private members' business item No. 49 outside the order of precedence, relating to the Workplace (Occupants Protection) Bill, be called on forthwith.

Order of Business**Motion by the Hon. J. S. Tingle agreed to:**

That private members' business item No. 49 outside the order of precedence be called on forthwith.

WORKPLACE (OCCUPANTS PROTECTION) BILL**Second Reading****Debate resumed from an earlier hour.**

The Hon. I. COHEN [2.34 p.m.]: The Greens have adequately stated their serious concerns about the bill. It appears that this is part of a process of introducing laws which address the impression of crime rather than the reality. As I said earlier, the bill is failing to address that. Much of the law and order agenda of this Parliament is failing to address the cost-effective and socially responsible method of reducing crime and to look at the underlying causes of crime. Rather, we seem to be discussing band-aid approaches to criminal behaviour. I am greatly concerned that people who are not properly trained are led to believe that they have a right to exercise certain violence against other people. I am concerned that we are following the United States of America practice of relaxing the regulations concerning personal ownership of guns and other weapons.

When the law dictates a specific position, that sends a message to many people that they have a right to violate others. It would be of great concern to many civil liberty organisations and people who look beyond the rhetoric of the media and the politics of the day if this legislation were introduced to gain votes. I am not saying that the Hon. J. S. Tingle had intended that to be the case. I have no doubts about his bona fides and his philosophy. However, in the community at large there is too much of an orientation, a populist belief, that this is a resolution of a problem in society. It does not deal with the deeper causes.

I have great concern about clause 10, which states that reasonable grounds for self-defence are to be determined having regard to the belief of the occupant based on the circumstances as the occupant perceives them to be. That test is very subjective. What the occupant thinks is hard to dispute; it should be a reasonable person test—that is, how a reasonable person would react in the circumstances. An occupant may act totally irrationally in the eyes of another reasonable person. That involves very important tests, particularly when the person is in his or her place of occupation, his or her territory. The Hon. R. S. L. Jones earlier cited one vivid example of overreaction by a video store manager to a minor crime by a young person.

The Hon. J. S. Tingle: He was punished.

The Hon. I. COHEN: I appreciate the Hon. J. S. Tingle saying that the person was punished. However, I believe that there is a danger with this type of law being presented and then digested through the media, because it could create a situation in which that type of reaction will increase, rather than decrease. We have heard of many circumstances of overreaction and I mention one concerning a development site near my

home town. A developer, who has been seen to be less than calm and rational at times in his treatment of trespassers, has bulldozers working his property. The bulldozers are having a significant impact on the environment, and people have protested about them. Young people who protest on forestry sites or development sites go there with the right intentions. People working on forestry sites are often a long way from the community and they could react in a very rough and inappropriate manner to young people who, generally, are protesting against the destruction of the forest or other environment sites.

There are implications of the bill that have not been properly investigated. While we must work towards establishing protocols with regard to such protest situations and the police and authorities understanding people's right to protest, we must ensure that the balance does not go the other way, with the result that people working on the site are able to make the decision about how to deal with protesters who come onto the site. I believe that this presents a danger in terms of ensuring the physical protection of people. Whether those people are right or wrong or are breaking the law, it is a very dangerous precedent and the Greens strongly oppose it.

Reverend the Hon. F. J. NILE [2.41 p.m.]: The Christian Democratic Party supports the Workplace (Occupants Protection) Bill, a relatively straightforward bill introduced by the Hon. J. S. Tingle, as honourable members are aware, following his success in having Parliament support the Home Invasion (Occupants Protection) Bill. That bill gave householders the right to defend themselves, their families and their property against an intruder using whatever force seemed reasonable to them at the time and in the circumstances. It also gave them immunity from civil or criminal liability arising out of a confrontation with an intruder and, if they were charged with an offence arising from such a confrontation, it placed the onus of proof on the prosecution to prove beyond reasonable doubt that whatever they did was not reasonable for them at the time and in the circumstances.

As the Hon. J. S. Tingle outlined to the House in his second reading speech, following the success of that bill he was approached by a number of people—including service station operators, chemists, newsagents, jewellers and many others—who asked that they be given the same protection as householders. However, the workplace situation is not as simple as the householder situation. Obviously, with regard to a home invasion a person is not entitled to be on the property unless invited there as a guest, and so on. In the workplace, shops and other commercial premises I have referred to, members of the public are not only allowed to enter the premises but are expected to enter the premises.

Indeed, advertisements and signs on buildings encourage people to come in and purchase products—whether they be newspapers from a newsagency, goods from a corner shop or supermarket, or videos from a video shop. Obviously, no proprietor of a business would invite or expect people to come into the premises to steal from them. That is a situation that we face here. Over the past few years shop owners have often said to me that there has been a change of culture in our society in that a number of people, mainly in the younger age group, think that it is acceptable to steal things from a shop if they can get away with it. Sometimes the stealing is done right under the nose of the owner of the shop.

The Hon. I. Cohen: How has that changed from 40 years ago?

Reverend the Hon. F. J. NILE: I grew up in a shop, and I never heard of any such behaviour. My father had a grocery shop after he sold his taxicab. No-one would come into the shop and start stealing from the shop while we were standing on the other side of the counter. But people do that today. How can a shopkeeper, who is on the other side of the counter, get over the counter quickly enough to apprehend the person and so on? Obviously, that is part of the breakdown in community standards. Also, today there are many people who produce literature. Some university student papers have produced lists of suggestions on how people can steal from supermarkets. The matter has been raised with police in different States, to ascertain whether encouraging and inciting people and showing them how they can break the law constitutes a breach of the law. Perhaps in the past a bill such as this may not have been necessary.

As I said a moment ago, my father originally had a taxi cab. He then sold the taxicab and bought a mixed business at Mascot, a corner shop, which sold a wide range of products. During all the years that I was growing up as a teenager, from the mid-1940s to the 1950s, I do not remember anyone ever stealing anything from that shop. However, something has certainly happened in our society since, which is a tragedy. The bill aims to give recourse to owners or occupants of commercial premises if a member of the public acts in a threatening or abusive manner once he or she is on the premises. The purpose of the bill is to allow occupants of commercial premises to take all reasonable steps to protect themselves, their colleagues and their workplace from attack by a person who is not an occupant of the workplace if that person commits a crime in the

workplace or against the owner or occupant of that workplace. The bill provides that these persons are deemed to be invaders for the purposes of the Act. The bill grants immunity from criminal and civil liability to an occupant who acts in accordance with the Act.

Clause 6 declares that it is the public policy of the State that its citizens have a right to enjoy safety from suspected offenders while at a workplace. Some people may say that the common law will solve these problems. However, in this case it seems that we need to have some clarity, and the bill is designed to provide that clarity so that owners and suspected offenders know where they stand. Clause 7 enables an occupant of a workplace to act in self-defence against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so. Clause 8 enables an occupant to act in defence of another person at the workplace against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so. Clause 9 enables an occupant to use such force against a suspected offender as is reasonable in defence of any property of, or within, the workplace if the occupant believes on reasonable grounds that it is necessary to do so.

I understand—although I am not yet certain; perhaps it will become clear in Committee—that the Government proposes to move an amendment to remove the ability of an occupant to defend his or her property. To my mind, that is one of the important provisions in the bill and as such it should be retained. I hope that if such an amendment is moved it will not be supported. Clause 10 provides that the test as to whether reasonable grounds exist is to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceived them to be. Clause 11 places the onus on the prosecution of proving, beyond reasonable doubt, that the occupant did not have the belief alleged, or that the grounds for the occupant's belief were not reasonable grounds. Clause 12 grants immunity from criminal liability to an occupant who acts in accordance with the proposed Act. Clause 13 grants immunity from civil liability to an occupant who acts in accordance with the proposed Act.

That is another important part of this bill. The necessity for this legislation is shown by the case of John Lee, a video shop owner, which was reported in the *Daily Telegraph* on 8 August. That matter occurred after the Hon. J. S. Tingle introduced this bill. More than \$500 worth of videos had been stolen from Mr Lee's shop. When he reported it to police, he was advised that it was up to him to catch the thieves in the act. Perhaps that is the new procedure for police operations in this State. I am not being critical of the police officers. It relates to government policy that is passed down from the Minister for Police to the Commissioner of Police, who then passes it on in directions to police officers. When people are robbed now, they are told to ring up the police assistance line and have a nice chat with somebody, and that is the end of the matter. It seems that police officers do not come to investigate and fingerprints are not taken. Even the radio advertisements promoting the police assistance line say that if enough people, say three or four, ring up to report the theft of their cars in a particular street, a surveillance operation may be put in action to catch the thief.

The Hon. Dr B. P. V. Pezzutti: After other cars have been stolen.

Reverend the Hon. F. J. NILE: After many cars have been stolen. Thieves should make sure that they do not steal from the same place twice. If they steal once they will never get caught. But if they go back to the same place a second time, or perhaps a fourth time, they might get caught. In the case I am referring to, Mr Lee followed the advice of the police. When two young men came in and robbed his shop—it was not a matter of his being angry or anti-youth—he tried to restrain them until the police came. The two young people, who were apparently part of a gang of six who had repeatedly stolen from his store, left the shop. Mr Lee was charged by the police—which was a shock to him, and, I believe, an unjust act.

Maitland Local Court heard that Mr Lee had asked for police advice and was told, "You have to catch them leaving the store with the videos." The court was told by Mr Lee that he watched through a one-way mirror as the youth and another juvenile opened a display case, removed the security activated strip and put videos down the front of their trousers. Mr Lee armed himself with a stick and some plastic electric cable ties. He went outside, raised the stick and told the two to lie on the ground. One of them ran away. The remaining youth refused to show the videos hidden in his trousers, so Mr Lee gave him a clip around the legs with the stick and forced him to the ground. He put the ties on him and hit him, but not very hard. As a result of being robbed and trying to apprehend the thief, Mr Lee was placed on a six months good behaviour bond after the offence of assault against a juvenile had been found proved.

Mr Lee's store had been robbed 18 months before. Not only had he been robbed, his staff had been threatened. As honourable members know, often thieves put a hypodermic needle against the arm or neck of shop attendants and threaten to inject them with AIDS-contaminated blood while they clean out the till or take

other things from the shop. Surely in those situations shop owners have a right to use reasonable force to protect themselves, their staff and their property. The Christian Democratic Party supports the bill. Let the bill be tested in operation. The cases will still go before the court and the court will hear the evidence. However, the prosecution will have the onus of proving beyond reasonable doubt that the occupant did not have the alleged belief or that the grounds for the occupant's belief were not reasonable. For those who oppose the bill, that clause should be sufficient protection to make it operate fairly and justly. We support the bill.

The Hon. Dr A. CHESTERFIELD-EVANS [2.54 p.m.]: I speak against the Workplace (Occupants Protection) Bill. I will not speak for any length of time because there are other important matters we need to deal with today. One of the things that always bothers me about these sorts of bills, which are ratcheting up the law and order agenda, is the lack of facts. Does more shoplifting occur now than in the past? If so, not much more. The prisoner population is increasing dramatically, but overall crime is not increasing dramatically. Yet we always hear this endless rhetoric, with anecdotes or hypothetical situations, about increasing the penalties and making justice tougher. This is another example of an endless pattern of small bills that deal with small areas but collectively ratchet up the odds.

As I said, the prisoner population is continually increasing, but it is not solving any of society's problems. It is simply a waste of money, as was illustrated in a video shown on Wednesday in the Parliament theatre. That film will be televised next week on SBS *The Cutting Edge* at 8.30 p.m. I have been burgled face-to-face only once. I was a student living in a four-bedroom classical-style terrace with a dunno out the back—the cheapest accommodation at the time in Camperdown. I came home one evening and, to my surprise, found the front door open and no lights on. I saw a cigarette coming down the stairs, which I discovered when I turned on the lights was a fellow walking out with my flatmate Jocelyn's video.

The Hon. Dr B. P. V. Pezzutti: We didn't have any videos when I was at school.

The Hon. Dr A. CHESTERFIELD-EVANS: The Hon. Dr B. P. V. Pezzutti is quite right. It was not a video, it was a stereo. I said, "Where do you think you are going with that?" He said, "I am taking it for Ross." I said, "Ross does not live here." I realised that I was talking to a thief. He realised more quickly than I, threw the stereo at me and managed to push past me in the hall. I put the stereo down quickly and raced after him. He was getting into his car, which was parked only a few yards away on the other side of the street. His car was full of all the electrical equipment that belonged to the four of us who occupied the house. I hung onto the car but he drove off. I then contacted the police.

We did not hear from the police for about six weeks. It turned out that they had identified the thief from the car registration number I had given. He was a fellow who had some problems. When his wife hassled him that they did not have enough money he would go out and steal some stuff, sell it at the local pub and say to his wife, "Here is the money." The police made a deal with him that if he paid back the money they would go soft on him when he came before the court. After we had not heard from the police for six weeks, my flatmate wrote a letter to the Minister. The police came around with books of photographs for me to identify the person, which I did. The police said, "You have made a lot of paperwork for us because now there is a ministerial inquiry. We were making a deal with him. We would come to you and ask what the stolen stuff was worth and if he gave you that money we would go easy on him."

If there had been a cricket bat in the front bedroom, which was occupied by a bloke called Gary, and I had hit the thief over the head with it and killed him, I wonder whether I would be here today. He certainly would not be here. The question then would be: Did I use reasonable force? I was coming home to my own house and I was somewhat frightened because I do not fancy myself as a great pugilist. Presumably, a person who has been stealing for years is tougher than I am. Therefore, I have to equal the odds with some sort of weapon, and if he gets hurt then tough luck for him. But it would then be said that although his death was very unfortunate, I had acted reasonably and I had a reasonable state of mind.

The Hon. Dr B. P. V. Pezzutti: That is only if it takes place in the workplace, not your home.

The Hon. Dr A. CHESTERFIELD-EVANS: That was a home.

The Hon. J. S. Tingle: We did that in 1998.

The Hon. Dr A. CHESTERFIELD-EVANS: I acknowledge those interjections and point out that in 1998 I voted in favour of the escalation in the rights of a person to defend his or her house but, in retrospect, I

wonder whether I did the right thing. This legislation will extend those rights from the home to the workplace. I foreshadow that in a few months someone will introduce a bill to extend those rights to the streets. Effectively, there will be legislation excusing anyone who, with reasonable force, defends himself or herself anywhere. In other words, it is very clear in some cases who the miscreant is, but in other cases it is very hard to decide which party is the miscreant.

The Hon. R. S. L. Jones described very well the video store incident that seems to have given rise to this bill. There was some hint of punishment in the behaviour of the shop owner towards the kid who stole a video. It is interesting to note—both the Leader of the Opposition in this House who is a former police officer and Reverend the Hon. F. J. Nile whose family members are members of the Police Service always support the police—that the police suggested the prosecution. That indicates that the police thought—even given the fact that they have been traditionally regarded as being a bit soft since they stopped giving to miscreants clips behind the ear behind the shed, so to speak—that the force used was in excess of the force that was appropriate to merely recover the video and that it was attempting to inflict some sort of punishment.

The offender involved, who admittedly had a bad history of shoplifting, was placed on a good behaviour bond. Such a penalty may have diminished the image of the offender in the community but nonetheless it does not interfere with his life as would have his going to gaol or, if the situation had been reversed, his being bashed severely. I put it to honourable members that this bill imports a change of emphasis. Instead of reasonable force being defined in the context of what actually happens, it becomes transferred to what the court believes about the state of mind of the defender of the property. State of mind is always very difficult to prove. Clause 7, self-defence, states:

An occupant of a workplace may act in self-defence against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so.

Clause 10, reasonable grounds, states:

Whether grounds are reasonable grounds for the purposes of section 7, 8 or 9 is to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceived them to be.

Instead of the test of reasonable being what actually happened, the test of reasonable is what supposedly happened in somebody's head some months ago. Since that can never be proved, I submit that the defender of the property would always get the benefit of the doubt. If the kid who stole the video happened to have been killed, that would be unfortunate, would it not? The ratchet effect of this legislation, which is supposed to be clarifying the situation, in fact muddies the situation considerably. The court should decide what is reasonable and what is not. Simply leaving the matter to a determination of what may or may not have been in the head of the defender of the property is another question, and the net result of taking that course may well be quite negative. Honourable members are presented with a lack of facts surrounding why the problem is worse now than it was when I was a kid. In those days, a number of people used to shoplift to see whether they could get away with that. It was a type of a bloodsport of youth—a rite of passage, if one likes.

The Hon. Dr B. P. V. Pezzutti: You did not do that.

The Hon. Dr A. CHESTERFIELD-EVANS: I did not do that, and I thank the Hon. Dr B. P. V. Pezzutti very much. In retrospect, I was a bit wimpy.

The Hon. Dr B. P. V. Pezzutti: You never smoked, that's your trouble.

The Hon. Dr A. CHESTERFIELD-EVANS: And I never smoked. The gap between rich and poor is widening. Problems are being created by drugs being extremely expensive and causing income crises for people who are unable to support their drug-taking habit. The dispossession of youth who find that unemployment is related to age, technological changes, globalisation and the drying-up of jobs for young people is a social problem that must be addressed. These problems currently may lead to increases in petty crime. The solution is not to give extra power, which is what this legislation does. A more intelligent approach is needed. Frankly, the lack of facts presented in this debate is depressing. Unless the case supporting this legislation is made out far more strongly than in the content of this legislation, the bill must be opposed.

The Hon. Dr B. P. V. PEZZUTTI [3.05 p.m.]: I remember being in this Chamber in around October 1986 at approximately 1.00 a.m. when Barrie Unsworth had legislation introduced into this House which provided that trade union members who were involved in industrial action in support of a dispute would have

been allowed to cause damage to the person or property of their employer. The legislation provided for that action to be excused if it was taken in the course of an industrial dispute. I remember the debate with interest because that was when the Hon. J. H. Jobling made his famous four-hour speech. It was necessary for him to filibuster until the burghers of the press woke up and gathered members of the business community and employers' organisations to make them aware of what Barrie Unsworth was on about.

About 10 o'clock that morning when they had all woken up, all hell broke loose and Mr Unsworth withdrew the legislation. The Australian Labor Party [ALP] is now supporting precisely the same type of legislation but this time it is taking the position of the other party. In the context of the Unsworth legislation, if a unionist was causing disruption in a workplace because he or she was terribly worried about occupational health and safety, or was terribly concerned about something associated with the work force, and then became quite worked up about it, the employer—thinking that the unionist's conduct amounted to an act of confrontation—could use violence that was necessary to quell the confrontation. What an extraordinary change of heart for the ALP! I remind honourable members that the bill states:

confrontation with a suspected offender—

The person is not an offender but is merely a suspected offender, which is quite difficult to get one's mind around—

means a confrontation with a suspected offender in which physical force is used.

The definition does not mention circumstances in which the suspected offender uses the physical violence; it simply states in which "physical force is used". If a trade union representative or a trade union member who is terribly concerned about the working conditions in the workplace has a heated argument with the employer and is then thumped by the employer, that trade unionist becomes the suspected offender and the employer is excused.

The Hon. J. S. Tingle: No.

The Hon. Dr B. P. V. PEZZUTTI: The Hon. J. S. Tingle says no, but the reality is that a close reading of this legislation reveals that that is exactly what it means. And the ALP, much fallen, is supporting this legislation! That is extraordinary.

The Hon. J. S. Tingle: So are you.

The Hon. Dr B. P. V. PEZZUTTI: The Hon. J. S. Tingle says, "So are you." Well, I have to tell the Hon. J. S. Tingle that the situation is not, "So am I."

The Hon. J. S. Tingle: Not you, but the Opposition is.

The Hon. Dr B. P. V. PEZZUTTI: We will have to find out. What was in the mind of the Hon. J. S. Tingle was not explained very clearly until this legislation in its formal state was made available to me today. Another issue that is receiving media attention is the bashing of troops in 3RAR where allegedly the CSM—

The Hon. A. G. Corbett: The company sergeant major.

The Hon. Dr B. P. V. PEZZUTTI: I thank the honourable member—brought forward two people who were accused of stealing from their friends. The company sergeant major said to the massed troops, "I want to see these two bashed and bruised tomorrow." And so it happened. This bill allows for precisely that type of conduct and the defence is that the suspected offenders—namely, the two troops—can be dealt with. I find that unacceptable.

The Hon. J. Hatzistergos: So you will vote against it?

The Hon. Dr B. P. V. PEZZUTTI: I said that I find that unacceptable, and I will get around to deciding whether I will vote against it. I am also concerned about the application of such provisions to the workplace particularly, but I understand why the Hon. J. S. Tingle has brought forward this legislation. For well over two years I have been writing to the Minister for Health, indicating my concern about violence exhibited to hospital staff, particularly in emergency departments. This matter has been raised with the Minister by specialists from the Society of Emergency Medicine, the Nurses Association and a number of other

organisations, but nothing has been done. Many things can be done to design workplaces to ensure that there are adequate staff numbers to deal with situations that lead to violence. There are ways to adequately train people to deal with confrontations and diffuse them. Emergency departments are places of enormous emotional turmoil for both the nursing and medical staff and very sick patients or those worried about sick relatives.

This Government has done very little about violence in hospital workplaces. Yet the bill, which it supports, allows hospital staff in an emergency department to take a baseball bat to someone who starts getting a bit stropy because the hospital staff are concerned that violence might be offered or because the person is acting in a confrontational manner. The bill fails because it is far too wide. It does not stipulate that the suspected offender has to offer physical violence; it only refers to the perceived use of physical violence. The bill states that the Parliament declares that the public policy of the State is that its citizens have a right to enjoy safety from suspected offenders while present at a workplace. What do they do with suspected offenders? If a person is suspected of being a paedophile does one have the right to bash that person?

The Hon. J. Hatzistergos: That is ridiculous.

The Hon. Dr B. P. V. PEZZUTTI: That is how ridiculous it can be.

The Hon. J. Hatzistergos: Why don't you read the bill?

The Hon. Dr B. P. V. PEZZUTTI: I am reading precisely from the bill. It states that an occupant of a workplace may act in self-defence against suspected offenders if the occupant believes on reasonable grounds that it is necessary to do so. What is one defending oneself against? What has the suspected offender done? Does the suspected offender have to offer violence before an occupant is able to respond with violence? If the occupant of a workplace apprehends a threat of violence, he or she can hit the suspected offender with a baseball bat.

The Hon. I. Cohen: A result of delusion, too.

The Hon. Dr B. P. V. PEZZUTTI: It could be. In those circumstances, could it be a reaction that allows the occupant to say later that he believed he was at risk? The bill further provides that an occupant of a workplace may act in defence of any other person in the workplace if the occupant believes on reasonable grounds that it is necessary to do so. That is the same thing. An occupant of a workplace may use such force as is reasonable against a suspected offender in the defence of any property of or within any workplace—that is the issue that the 3RAR is dealing: theft in the barracks by a person named by the company sergeant major—if the occupant believes on reasonable grounds that it is necessary to do so.

The offender does not have to offer physical violence against an occupant of a workplace: the occupant can act in defence of any property. It could be something like the Hon. Dr A. Chesterfield-Evans' boom-boom machine. The bill provides that reasonable grounds for the purposes of proposed sections 7, 8 or 9 are to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceives them to be. This is an extraordinary bill! Onus of proof in criminal proceedings—

[Interruption]

The fact that the Hon. J. S. Tingle thinks that the bill says something does not mean that it does say that. The law is a little bit like the wonderful book *Through the Looking Glass*: sometimes the law thinks it says a certain thing, but it does not necessarily do so. In relation to onus of proof in criminal proceedings the bill states that if in proceedings against an occupant of a workplace the occupant seeks to rely on the provisions of proposed sections 7, 8 or 9 the prosecution has the onus of proving beyond reasonable doubt that the occupant did not have the alleged belief, which is difficult; or that the grounds of the occupant's belief were not reasonable grounds. How does one do that? It means that the prosecution has no way of proving that the occupant did not have the belief that the occupant said he or she had, or that they are not reasonable grounds. It is extraordinary!

In relation to immunity from criminal liability the bill states that an occupant of a workplace who acts in accordance with sections 7, 8 or 9 is immune from criminal liability resulting from his or her acts. This is the type of section that was in Barrie Unsworth's legislation to protect unionists if they caused property or physical damage to the boss at the workplace or at his home. It further states that if proceedings are commenced against an occupant accused of a crime as a result of confrontation with a suspected offender, the occupant must be brought before the court, whether by way of preliminary hearing or otherwise, within nine months after the proceedings are commenced.

However, the nine-month period is to be extended by the length of any delay that is attributable to the occupant. The authorities have nine months, but that period can be extended. It is terrific! Sometimes Parliamentary Counsel has it a bit both ways. In relation to immunity from civil liability the bill states that an occupant of a workplace who acts in accordance with sections 7, 8 or 9 is immune from civil liability resulting from his or her act. If an occupant bashes an offender in the head and knocks the offender in the teeth, the occupant does not have to pay for the cost of fixing up the offender's teeth. That is absolute. I think the Hon. J. S. Tingle supports the legislation introduced by the Hon. A. G. Corbett to try to prevent damage to children from excessive punishment.

The Hon. J. S. Tingle: No, I didn't.

The Hon. Dr B. P. V. PEZZUTTI: He did not.

The Hon. J. S. Tingle: The caning bill.

The Hon. Dr B. P. V. PEZZUTTI: There he says "The caning bill". The bill does not stipulate how old the offender might be. It could be a child aged five, six, seven, 10 or anything. I support, and I believe the Opposition will support, the proposal to limit the punishment that can be given to children, but this legislation does not. If the child is five, six or 10—

The Hon. M. I. Jones: It has to be self-defence.

The Hon. Dr B. P. V. PEZZUTTI: It is also defence of property. It says the defence of property, and the property is not defined in any way.

The Hon. I. Cohen: It could be a video.

The Hon. Dr B. P. V. PEZZUTTI: Whether it be a video or a bar of chocolate, you can bash the kid and get away with it. You are defending your property. The object of the Hon. J. S. Tingle's bill is to declare that the public policy of the State is: to give citizens a right to enjoy safety from suspected offenders—not safety in the workplace, but safety from suspected offenders while present at a workplace; to sanction the use of physical force by an occupant of a workplace in a defence against suspected offenders if the occupant believes on reasonable grounds that it is necessary to do so; and to provide immunity to occupants from criminal and civil liability arising from anything done by them that is sanctioned under the proposed Act. I am astonished that the Australian Labor Party would support such a bill, and I would be astounded if my side of the House supported the bill.

The Hon. Jan Burnswoods: You're trying to stop the M5 East from being debated. Is that why you're wasting discussion time?

The Hon. Dr B. P. V. PEZZUTTI: No, I am not at all. I am astonished that my item of precedence, which I have been patiently waiting to come up, about the way in which the Minister for Health dealt with Canterbury Hospital, did not receive precedence. I am astonished that this House agreed to allow the Hon. J. S. Tingle to introduce his bill when I am desperately keen to debate Canterbury Hospital. I leave it to the conscience of the House to properly examine the bill, which will not protect people who act in good faith and who might have had problems with the law.

The Hon. J. HATZISTERGOS [3.20 p.m.]: After that extraordinary exposition from the Hon. Dr B. P. V. Pezzutti I am in absolute wonder as to how the Opposition, and in particular the Hon. Dr B. P. V. Pezzutti, will vote on this matter. I understand that he would have preferred to debate something else but it does him no credit to debate a bill about which he knows absolutely nothing, as was evident from his contribution.

The Hon. Dr B. P. V. Pezzutti: You try and justify this one.

The Hon. J. HATZISTERGOS: The Hon. Dr B. P. V. Pezzutti was concerned about how this bill will be administered. The reality is that it is largely already administered, because this bill is a reflection of the law as it already stands.

The Hon. Dr B. P. V. Pezzutti: Then why has it been introduced?

The Hon. J. HATZISTERGOS: Because it will codify the law and because the common law can always be developed and changed by the courts. But once the Parliament takes responsibility and legislates, the

legislation can be amended to reflect changing circumstances and community opinion. I commend the Hon. J. S. Tingle for having introduced the bill, not only to reinforce the common law as it already stands but to give everyone the opportunity to consider the merits of the law. That has been the situation since the High Court resolved the defence of self-defence in *Zecevic v. Director of Public Prosecutions*. I have not seen nurses using baseball bats against patients, or employers going after their employees, or any other acts of workplace violence in the 13 or so years that the law of self-defence has been in place. That is an extraordinary argument, and the sort of polemics we heard from the previous member really defies any sense of logic. It would have been preferable if the Leader of the Opposition were here to listen to the sort of nonsense that the Hon. Dr B. P. V. Pezzutti was propounding.

The Hon. Dr B. P. V. Pezzutti: Where's your amendment?

The Hon. J. HATZISTERGOS: Let us get a few things clear, first of all. The defence is not activated unless the circumstances in clause 4 arise. That is:

A person in a workplace is a suspected offender for the purposes of this Act if an occupant of the workplace reasonably believes that the person has committed, or is committing, a crime in the workplace against an occupant of the workplace or the property of, or within, the workplace.

The defence has to be raised.

The Hon. Dr B. P. V. Pezzutti: You have an amendment that will wipe out one whole clause.

The Hon. J. HATZISTERGOS: No, it will not. The Hon. Dr B. P. V. Pezzutti demonstrated in his contribution that he knew nothing. It is important that he listens to what I have to say so that he will understand the amendment. The self-defence argument has to be raised in the context of clause 4 in a prime facie way. Once that is raised, the other provisions in the bill come into play and determine whether the defence has substance. The Hon. Dr B. P. V. Pezzutti had a lot to say about the onus being on the prosecution. The prosecution must prove the offence beyond reasonable doubt and the Hon. Dr B. P. V. Pezzutti asked how that is done. The reality is that for 13 years, and ever since the High Court decided the *Zecevic* case, the courts have been dealing with this matter in exactly the same terms as provided in clause 11. The effect of clause 11 is no different to what the High Court decided in *Zecevic* and the way that case has been applied time and again.

It was an extraordinary attempt by the Hon. Dr B. P. V. Pezzutti to take bits and pieces of this legislation and put them under a fine microscope, to pretend that the rest of the bill does not exist, and then go to the next clause and do exactly the same. As I said, it is important that the Hon. Dr B. P. V. Pezzutti stop being alarmist about this bill by saying it will be unworkable and will authorise people to go out and commit acts of violence. This bill does not authorise any acts of violence at all. It provides protection for people to defend themselves. It does not provide protection for people who commit crimes. It provides protection for people who wish to defend themselves in reasonable circumstances, having regard to the circumstances in which they are placed. It does not oblige people to defend themselves. People who do not want to defend themselves and want to do other than defend themselves can do so. The bill just gives them protection so that if they do defend themselves, particularly if it is an impulsive decision that is made reasonably in all the circumstances within the parameters of the legislation, they will be protected from criminal or civil liability.

I find the remarks of the Hon. Dr B. P. V. Pezzutti about the bill somewhat extraordinary, alarmist and sensationalist. I do not know how clause 6 can be interpreted to mean that the statement of public policy means that a person may be attacked in his or her workplace, or a person can bash a person suspected of being a paedophile, because that circumstance is activated by clause 6. I have tried to tease out of the words of clause 6 any interpretation that somehow they give licence for someone to bash a paedophile or a suspected paedophile, but I cannot. Clause 4 makes quite clear the circumstances in which the policy or defence raised in clause 6 may arise. There must be a necessary element of reasonable belief. Similarly, there is nothing extraordinary in clause 7, which states:

An occupant of a workplace may act in self-defence against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so.

That is the way the law has been applied for the past 13 years. Clause 8 states:

An occupant of a workplace may act in defence of any other person at the workplace against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so.

Again that is a subjective element but the objective element requiring reasonable grounds is also in that clause. Again that is a reflection of the common law. Clause 9 states:

An occupant of a workplace may use such force as is reasonable in defence of any property of, or within, the workplace against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so.

That is the common law: the force has to be reasonable and the belief has to be based on reasonable grounds. Even though there is a subjective element in that clause it has two aspects of objectivity which provide reasonable parameters of how a person can act. Clause 10 again reinforces the issue that the reasonableness of the circumstances is to be judged having regard to the belief and the perception of the occupant at the time that the action was taken. The Government's foreshadowed amendment will delete from clause 10 the reference to proposed section 9. In the context in which the bill has been drafted, the omission of the reference to section 9 will not detract from the substance of the bill but it will reinforce the common law position as it applies today.

It is about time that people got serious about whether they want to provide some form of protection in a codified way or run the risk of allowing the common law to develop in a way other than it has at the moment. That is always a risk. This bill provides people in workplaces with the same sort of protection that they have had for 13 years. It also ensures that the law does not move away from the determination in Zecevic. The alarmist comments of the Hon. Dr B. P. V. Pezzutti are a reflection of his ignorance. It is good that the Leader of the Opposition is here because he can rebuke the Hon. Dr B. P. V. Pezzutti at the appropriate time for the insolent way in which he has acted and try to encourage him to vote with him on the bill when, as is likely, there is a division.

The Hon. A. G. CORBETT [3.29 p.m.]: The Hon. J. S. Tingle has introduced this bill in response to a number of incidents in which owners or occupiers of businesses have been successfully prosecuted for actions they have taken in defence of their property and perhaps their person. It is entirely understandable that decent members of a community feel justified in defending themselves or their property against criminal acts. As a member of that community I am sure that I would wish to defend my family or property should the occasion arise. However, despite the laudable intentions of the bill I have a number of concerns about it, and I ask that those concerns be addressed if possible.

My first concern relates to the concept of allowing physical force as a defence by any occupant of the workplace. I can picture the possibility of a bystander to a potential robbery launching some form of physical action against a suspected offender whereby that violence inadvertently causes harm to another bystander or occupant of the site—that is, the action injures a person who is not the suspected offender. Who would be responsible for the injury to the bystander? Who would be liable for the action that caused the injury? It is important that this is clarified now as we consider the ramifications of the bill. Another concern is the use of the word "crime" in clause 4 of the bill. If we assume that "crime" follows the definition in the Crimes Act, any crime from the most trivial to the most serious will be included in this new Act as a trigger for physical intervention and actions taken by the occupant in defence against the said crime.

I may be on the wrong track on this issue, and I therefore seek clarification on it. Clauses 7, 8 and 9 allow an occupant to act in defence of self, others or property believed to be at risk of criminal intervention by the suspected offender. My concerns in this area relate to the fact that once physical intervention begins there is an increased risk of escalation of violence. The scenario of retaliatory violence by the offender or other occupants conjures up visions of popular Hollywood movies, in which in a shoot-out any implements are used. We do not want such movie scenes transferred from fiction to fact in our society.

Clause 11 relates to the onus of proof in criminal proceedings. I query how the prosecution can prove beyond reasonable doubt that any occupant in a crime scene did not have a belief that a crime of some sort was about to be or was in process. A belief is an opinion, conviction or principle accepted as true or real, especially without proof. During any action that this bill might cover there is a high probability that the belief is an internal and almost instantaneous thought process resulting from the current circumstances. This belief relies on the perceptions of the occupant, which will be moulded by past experiences, including any contact with violence or fearful situations, emotions on the day, state of health and many other factors. I see little likelihood of a prosecution disproving such a belief unless the occupant actually stated something to a third party about using force, for example, against a shop owner.

If the prosecution cannot do so—that is, that only one onus of proof is available to the prosecution—the only alternative is that the prosecution prove that such a belief was not reasonable. This bill contains no boundaries as to what is reasonable. My last concern, and the subject of my amendment, is that by allowing any

person on the workplace premises who believes the crime is being, has been or is about to be, committed to use physical force against suspected offenders raises the spectre of an observer misunderstanding the force levels allowable, which could lead to serious violence. It is vital that the public has clear knowledge of the provisions and meanings of this legislation before it is enacted to prevent any such misunderstanding. The public must know its rights and obligations under this Act before it commences. The public needs to have some further examples of what could be considered reasonable use of physical force in a range of typical situations to which this bill may lead.

The Hon. R. H. COLLESS [3.33 p.m.]: I support the Workplace (Occupants Protection) Bill. I was not sure whether I or my colleague who spoke previously would cross the floor on this matter. I believe this bill confirms the rights of citizens in this State to protect their businesses from individuals intending to commit a crime against the occupant of or in the workplace. There has been much discussion in this House about criminal offences occurring in businesses essentially in urban communities. I shall focus more on crimes committed on farms in rural areas where very often no police protection is available—in some cases at least not for many hours—for the farm or property on which an offence may occur.

If an offender enters a farming property—which, in western New South Wales, may be well over 100 kilometres from the nearest police station—the farmer, his family and employees must be able to protect themselves, their property and their assets, such as livestock, farm machinery, produce and motor vehicles. Stock theft is a serious problem in rural New South Wales since this Government's abandonment of an effective stock squad within the Police Service. I am aware of several quite large thefts of livestock in recent times in northern New South Wales. It is of great concern to farmers that if they come upon these thieves—who can have quite a lot of infrastructure with them, such as trucks, dogs and even horses, while they are illegally on the farmer's property as they muster and remove the livestock—they may be unable to take any action to prevent these scoundrels from completing the theft.

Farmers, farmhouses and farm headquarters are isolated facilities often many miles from the nearest neighbours. Occupants of these properties have no chance of obtaining assistance if a potential perpetrator of a crime arrives, other than by taking action themselves. Such occupants must have some form of formal protection should they be required to use some degree of physical force in order to protect themselves and their property. An associated bill, to be known as the Right to Self-defence Bill, will be introduced in the other place, and I call on my parliamentary colleagues in the other place representing the Northern Tablelands and Clarence electorates to support that bill for the benefit of people in rural businesses throughout New South Wales.

The Workplace (Occupants Protection) Bill provides protection to the workplace similar to that provided in the Home Invasion (Occupants Protection) Act 1988. The argument of the Greens and the Hon. R. S. L. Jones against this bill is probably better suited to a debate about juvenile crime and the reasons it occurs. Perhaps those arguments could be used in a debate on the causes of crime and drug use rather than in debate on this particular bill. Once an offender trespasses on premises with the intention to commit a crime it is too late to then talk about examining the reasons the offender actually wanted to commit that crime. I do not agree with the Government's amendment to remove clause 9 regarding defence of property as this clause is important for people in rural workplaces. I commend the bill to the House.

The Hon. M. I. JONES [3.37 p.m.]: I support the Workplace (Occupants Protection) Bill, which has been introduced by the Hon. J. S. Tingle. This bill allows some commonsense to prevail with regard to self-defence. It is right and proper to switch the onus of proof to the prosecution to prove a business person, a workplace occupant, is guilty rather than the person proving his innocence. To my way of thinking—and I believe that of the majority of the general public, though I admit not all—when a person commits a crime the status of victim transfers to the person against whom the crime has been perpetrated. Our lives are changed by crime. Constant awareness of security is a pressure exerted on all of us, especially our women. Current law is weighted against the law-abiding citizen in favour of the criminal, and has to be addressed.

The Hon. J. S. Tingle addressed this aspect in his home invasion bill and, as a logical extension of that bill, extends the same logic to business people and others on business premises. The bill does not condone booby traps or authorise firearms, but it enables people to defend themselves. Not only do I both endorse and support the bill, but I thank the Hon. J. S. Tingle for its introduction, as will all business people who are exposed to risk from potential criminals. I am sick of crime. I am sick of criminals. And I am sick of bleeding hearts constantly excusing crime and wishing to blame the motives for crime on the acts of others. Yes, a criminal may have come from a dysfunctional family; a criminal may have had a tragic childhood. But not all people from sad and disadvantaged childhoods are criminals.

Breaking the law by breaking into premises with evil intent is a voluntary act and it is a natural act to defend oneself. The law should support the honest person and convict the perpetrator of the crime. It should not be necessary to be driven in a taxi by a driver who is encapsulated behind a screen, but it is. I do not want to go into a general store in the evening and be served by someone behind a cage-like grille, or not be able to interface with a bank clerk, who is protected by bulletproof glass; or worry about the security of my car when it is parked in the street. I have had my car broken into many times, as recently as only three months ago. This behaviour is all wrong, and it is a manifestation of more and more people living off crime.

The Hon. P. J. Breen: Your old car was broken into.

The Hon. M. I. JONES: The old one and the current one were both mine. At the very least, we should be able to defend ourselves against criminals. My thanks, and those of a grateful society, go to the Hon. J. S. Tingle and to all those who support this important reform. I believe there is wide-ranging support among all law-abiding citizens across this State, as has already been reported by previous speakers. Once upon a time, if you had a problem you could go into the police station. But now police stations are closing down. Now if you report a crime the police do not come out to you; you have to go to them, and go through the process of police virtually yawning in your face when you report the crime. I know that to be true because it has happened to me on many occasions. It is a bad experience. It comes down to the excesses of crime that we are suffering.

I would like to make reference to some stupid things that have been said in this debate by a member who should know better, but obviously does not. I refer to Ms Lee Rhiannon, who said, "This is a beat 'em up, lock 'em up solution." That hardly adds sense to the debate. She also went on to say that this bill "will lead to a mini arms race in the suburbs". For the benefit of the honourable member and those who may be swayed by her argument, I should inform the House that under the gun laws an individual can be gaoled for two years for being in possession of a firearm for an unregistered purpose, and for five years for having an unregistered firearm. And, as a reason for having a gun licence, self-defence is not acceptable, so one cannot get a gun on that basis. Therefore, to say that there will be a mini arms race in the suburbs is just twaddle.

I will oppose the Government's amendment which proposes to delete clause 9 on the simple basis that the amendment would weaken the bill to such an extent that it may become ineffectual. Property is extremely important, as is personal security. To be brief so that we may progress this legislation, I simply say that I endorse the bill.

The Hon. P. T. PRIMROSE [3.43 p.m.]: I will speak only briefly to the Workplace (Occupants Protection) Bill, but first I seek the indulgence of the House to speak on another matter. As honourable members would be aware, the Deputy Government Whip, the Hon. Andy Manson, announced his retirement from this place. Indeed, this will be his last day in this Chamber. In true Andy Manson fashion, Andy made it known that he did not wish to have speeches made to mark his retirement, that he simply wished to have five minutes yesterday during the adjournment debate. Obviously, I respected his wishes when he told me about that. As Government Whip, I think it appropriate to express publicly my appreciation to Andy Manson for his efforts over a long period of time. When I came to this place Andy was the Deputy Government Whip.

After the last State election, as events evolved I became Government Whip. It would be understandable in such circumstances if a person who had been in the deputy's position had become somewhat jealous or perhaps upset about a new chum taking up the position of Government Whip. But I was both relieved and eternally grateful that that is not part of Andy's personality. Andy has been steadfast in his support of the Government and has done a marvellous job when I have asked him to do something in the discharge of his role. I put on record my appreciation of his efforts, his help and his steadfastness in performing his role, making my duties as Whip that much easier. I know that the previous Government Whip would express exactly the same sentiments. I say personally, but I know with the support of all honourable members of this House, that we wish to record our appreciation to Andy for his efforts. We wish him well in the future.

The object of the Workplace (Occupants Protection) Bill is to protect persons at places of work from suspected offenders. The bill declares that it is the public policy of the State that its citizens have a right to enjoy safety from suspected offenders while present at a workplace; sanctions the use of physical force by an occupant of a workplace in defence against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so; and provides immunity to occupants from criminal and civil liability arising from anything done by them that is sanctioned under the proposed Act.

The main purpose of the bill, as has been outlined by others who have spoken in this debate, is to codify the law of self-defence and defence of property as it relates to business owners and criminal activity on

their premises. As someone who is not a lawyer but is interested in the law, especially as a legislator, I relish the traditions of our common law. However, to understand the common law means going through dozens, if not hundreds, of cases extending over close to a millennia and being aware of judges' interpretations. This bill proposes to codify what is the common law on this subject. For better or worse—I believe this is a better proposal—this bill will make clear to citizens what their rights are. I think that is eminently reasonable. It will codify the law of self-defence and defence of property so far as it relates to the workplace environment.

This bill is to be considered in Committee, so I do not wish to delay that process, but I wish to make it clear that any proposal that makes it simpler for citizens to understand the law and what rights and responsibilities they have under it deserves consideration by this Chamber. This bill does not detract from the common law. I certainly would not wish to live under a Napoleonic system of law—in fact I pride myself on supporting the common law—but this bill will codify the common law so that citizens will know their rights in relation to self-defence. I look forward to further consideration of the bill in Committee to address the concerns of honourable members.

The Hon. A. B. KELLY [3.48 p.m.]: I do not propose to take up much of the time of the House in this debate but I must make some comments because we are about to go into Committee, where I have a certain position that does not allow me to ask questions. I am particularly interested in this bill because of a number of incidents that have occurred in my area. One involved an Orange shopkeeper, who, when he was being robbed, drew a gun from under the counter. He got into an enormous amount of trouble. I am sure the Hon. J. S. Tingle is aware of that particular matter.

At a Mobil service station in Wellington a young female service station attendant, who just happened to be an expert in judo, sent a male offender scurrying. In fact, in the end, he locked himself in his car so that she could not get at him. Obviously, this bill has application to such persons and circumstances. However, I am interested whether it will apply to taxi drivers in particular. The Hon. J. S. Tingle might comment on that. Also, just a moment ago, after a number of members had delivered their speeches, an inquiry was made: Will this measure apply to violence in this Chamber?

The Hon. J. S. TINGLE [3.50 p.m.], in reply: I thank all members who have participated in debate on this bill, including, believe it or not, the Hon. Dr B. P. V. Pezzutti. We have heard a fascinating spectrum of opinions and a fascinating range of misunderstandings about what this bill is about. This bill is not about introducing vigilantes, if we want to call them that, into the workplace. It is not about people carrying guns. It is not about five-year-old children being bashed up. It is not about saying to people, "If you even suspect that somebody is doing the wrong thing, take to them with a baseball bat." As several speakers have said, this bill is simply saying to ordinary people in the workplace who are trying to go about the business of earning a living that they have rights, and these are what their rights are.

The bill does not say to them that they must attack people if they think they are doing the wrong thing in their shop or office. It does not say to them, "We are going to go to war with young kids who might steal something," or, as Ms. Lee Rhiannon said, "because they are bored and do not have a lot of money". This bill is not about that at all. It is simply about trying to balance the scales, which in my opinion are totally out of balance at present, between the right of a person to work and to earn a living in the workplace and the right of other people to commit what might be quite minor offences without being unduly physically punished. I am grateful for the Government's support; I did not think I was going to get it.

Let me say in passing that I am also encouraged by the foreshadowing by the Special Minister for State of umbrella legislation, which I understand the Attorney General is planning to introduce next year. I believe that that legislation, if I understand its intention correctly, will answer a lot of the criticisms that have been made of this bill, even those which claim that it is too wide, because it will become, I think, the ultimate codification of what the common law says we can and cannot do. We all know that we cannot look up the common law in books. It reposes in millions of judgments of courts all over the place, going back through the history, I suppose in a way, of the British system of justice.

It is not possible for an ordinary person standing behind a counter, working in a Mr Whippy van, or driving a tractor or taxi to know what the common law says he can or cannot do. This bill states what they can do, but it also states—if people bother to read both the bill and my second reading speech—what they cannot do. In approaching that embracing legislation on the right of self-defence which the Attorney General has foreshadowed, I would like to think that my two bills, the home invasion bill and the Workplace (Occupants Protection) Bill, have in some ways encouraged and urged the Government to bring on just the sort of bill it is now talking about, which will override and replace those bills.

That is no reason why this bill should not be passed and become law. We need, if you like, the two columns of that bill upon which to build the arch of the new legislation. The Special Minister of State said that the term "vigilantes" was undesirable. I agree wholeheartedly with that. I do not believe that anything I have said or done in this Parliament, or any comment that I have made in debate, could be interpreted as meaning that I, or the party I represent, want people running around the street taking the law into their own hands. We do not. When that happens we wind up with anarchy and a lot of people who otherwise would not have suffered get hurt or killed.

I also totally agree with the Special Minister of State that the police are the people best equipped to deal with criminals and that, where possible, dealing with criminals should be left to the police. But that is only when and where they are available, when and where we can get them to attend, and when they have the resources to deal with what in some instances might be seen as a fairly minor crime. The Special Minister of State also foreshadowed a Government amendment which he said he understood I was happy with. I would not say I was happy with it—that is something of an overstatement—but I recognise the Government's motives in moving it. To test, if you like, the feeling of the Committee, I will oppose the amendment but I do not intend to divide the Committee on it. I simply think it ought to be examined.

I am grateful also for the Opposition's support. I suppose that the Leader of the Opposition made one of the most important points in this debate today: the impossibility of determining what is reasonable force in the face of an attack. That is exactly what this bill is about. It is to make clear to citizens what they can and cannot do in such a situation. The Leader of the Opposition referred to another bill of which notice has been given in the other place and the need to put the final piece of the jigsaw into place so that we have a clear picture, which everyone can understand, of the right of self-defence. I agree entirely with that. I do not know what is in the other bill and, frankly, I do not care whether the Government does this or whether the Opposition does it, as long as somebody produces the sort of legislation that will clearly state what we can and cannot do in self-defence everywhere. The Government's bills sounds good and the Opposition's bill sounds good. Let us see which one prevails.

I find it difficult to bring myself to respond to some of the comments made by Ms Lee Rhiannon because she got it wrong again, as she does from time to time in this Parliament. How she can say derisively that law and order rules with the major parties as though that was some sort of fault is quite beyond me. I hope that law and order rules not only with the major parties and in Parliament but everywhere. Without law and order, we are simply a society in total confusion and tumult, and law and order are the only things that guarantee the sorts of rights that we hope we have. She is also wrong when she suggests that there will be a mini arms race in the suburbs. As I have said before, this bill is not about people arming themselves; it is not about firearms.

If Ms Lee Rhiannon had the foggiest clue what the Firearms Act 1992 and the Firearms Act 1996 provide, she would know that she is talking rubbish. In fact, I am surprised that as a former member of the Coalition for Gun Control she does not know better than to say some of the things she said. We cannot legally have in our possession a firearm, loaded or unloaded, in our home, in the workplace or in a public place without incurring massive penalties. If a policeman comes into my house and I have my firearm out of my firearms cabinet, which is a big bank safe, I can lose all of them. I have to keep it in there.

Shopkeepers, taxidriviers or others who armed themselves with firearms for the purposes of fending off an anticipated attack would be committing the sort of offence that would remove them from the protection of this Act. They would be committing an offence which is subject to a range of penalties from two to five years gaol. If people use firearms against suspected offenders, as defined in this Act, they would remove themselves from the definition because the offences they would be committing would be greater than the offences the offenders were committing. For heaven's sake, let us get away from relating everything back to firearms.

Unfortunately, I believe we have to dismiss the words of Ms Lee Rhiannon as a fairly typical reaction that we would expect from her extremity of the political spectrum. When it comes to the Hon. R. S. L. Jones and the Hon. I. Cohen, see all of the above. I am a bit surprised at the Hon. R. S. L. Jones. I remain in his debt because I would not have got the home invasion bill through this House had it not been for his casting vote. I thank him for that. I do not know why he is so upset about this bill. The Hon. I. Cohen said that this bill is about exercising violence against people. It is not. It is about people knowing how they can defend themselves against violence; not using violence against other people.

I appreciated the honesty of the Hon. Helen Sham-Ho in expressing that she had serious reservations about this bill and that she intended to support the Government's amendment. That is her prerogative. Had

others given the same deep consideration to this bill as she obviously has I believe that they would not have put their feet in it in quite the way that they did. The Hon. Dr P. Wong had much the same attitude as the Hon. Helen Sham-Ho. I endorse his comment that people want to be able to use reasonable force. That is just the point of this bill. People do not know what reasonable force is. When this bill becomes law they will have a much clearer idea.

A number of other speakers touched on various matters but I do not intend to go on at length about those issues because I would like this bill to go into Committee. I was a little perturbed to hear the Hon. Dr A. Chesterfield-Evans, who usually shows a lot more understanding than this, talking about whether shoplifting is increasing. This bill would not be before the Chamber and we would not have had the sorts of community discussions that we are having if that were not the case. The John Lee case, which the Hon. R. S. L. Jones said was the trigger for this bill, surely is an indication of how serious this problem has become. Incidentally, the John Lee case was not the trigger for this bill. I put this bill on the notice paper on 4 April this year. The John Lee case happened at the beginning of July this year. The bill was there, ready to go because of what shopkeepers and other people in the workplace had said to me about needing the same sorts of protections that the home invasion bill gave to people in their homes.

The Hon. Dr A. Chesterfield-Evans talked about the prison population increasing, increasing penalties and all the rest of it. This bill is not about increasing penalties. It does not talk about penalties; it talks about the right of self-defence. I find it a bit odd that the Hon. Dr A. Chesterfield-Evans feels that we are being a bit rough in encouraging people to defend themselves when, on his own admission, in his case the police took six weeks to act after somebody broke into his house. However, that is one of those things. I suppose the less I say about the contribution of the Hon. Dr B. P. V. Pezzutti the better. I would like to think that it was tongue in cheek. I suspect that it may have been something different. I also suspect that he was unaware of the comments that had been made by his leader when the debate started in this Chamber this morning.

I am very grateful to the Hon. J. Hatzistergos for dealing so successfully with the matters raised by the Hon. Dr B. P. V. Pezzutti and pointing out that the bill does not introduce anything new into our community—any new type of self-defence, any new levels of it—because it follows exactly what has been the practice for a long time. I will not go on about this any longer except to say that I am grateful to all the honourable members who took part in the debate. I reiterate that the bill is designed to demonstrate to members of the community that there are some actions available to them in law to allow them to defend themselves and others against the depredations and attacks of others.

The bill does not, I say again, promote vigilantism. It does not mean gunfire in the workplace; it is just silly to suggest that. It does not introduce any astonishing ability of self-defence. It simply defines, explains and justifies what is already in the common law, but in words that everyone can understand. I believe we need this. I believe it is also necessary to show that we are insistent on a return to law and order. To those who keep bleating about how bored and how poor young people are, as though that were some sort of justification for their committing crime, I ask: Whose side are we supposed to be on? Are we on the side of the workers in the workplace who are trying to go about their work unhindered and in safety or the people who would rob and attack them? I believe we have to get our priorities right. I commend the bill to the House.

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

The House divided.

Ayes, 30

Mr Breen	Mr Gay	Mr Samios
Ms Burnswoods	Mr Harwin	Ms Sham-Ho
Mr Colless	Mr Hatzistergos	Ms Tebbutt
Mr Corbett	Mr M. I. Jones	Mr Tingle
Mr Della Bosca	Mr Kelly	Mr Tsang
Mr Dyer	Mrs Nile	Dr Wong
Mr Egan	Revd Nile	
Ms Fazio	Mr Obeid	
Mrs Forsythe	Mr Oldfield	<i>Tellers,</i>
Mr Gallacher	Mr Ryan	Mr Jobling
Miss Gardiner	Ms Saffin	Mr Primrose

Noes, 4

Mr R. S. L. Jones
Ms Rhiannon
Tellers,
Dr Chesterfield-Evans
Mr Cohen

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clause 1 agreed to.

Clause 2

The Hon. A. G. CORBETT [4.10 p.m.]: I move A Better Future for Our Children amendment:

Page 2, clause 2. Insert after line 6:

- (2) A date is not to be appointed for the commencement of this Act unless the Minister has certified to the Governor that an appropriate education campaign has been conducted to inform the citizens of the State of their rights and obligations under this Act.

My amendment will add a clause that delays the commencement of this Act until the Governor is satisfied by the Minister that the general public has received education on the ensuing rights and obligations under this Act. A major concern about this bill is that the public will misunderstand its provisions and therefore use force inappropriately. One of the fundamental conventions that underpins the law is that it should be as certain as possible and have clarity so that the public can understand its rights and obligations or any prohibitions on behaviour. Hence, it is of the utmost importance to ensure that the public receives accurate and unbiased information about how it is able to lawfully respond to a suspected offender. The Minister has already mentioned that a number of relevant groups are meeting with this purpose in mind. Obviously there is a need for people to discuss and clarify the consequences of the bill.

The requirement that the Minister has to certify for the Governor that an appropriate education campaign has been conducted will guarantee close government scrutiny of any information given to the public about its rights and obligations under this Act. Hence, there is less chance that any misunderstandings will occur. If honourable members have misunderstood this bill, surely the public will also have some misunderstandings about the bill. The Hon. J. S. Tingle referred to the example of taxi drivers and shopowners arming themselves. Of course, this is not part of the bill and that is against the law. Any education campaign should clearly state that that is not allowed under the bill or any other law. I commend the amendment to the Committee. I believe it is a sensible one and will not interfere with the bill coming into effect.

The Hon. J. S. TINGLE [4.12 p.m.]: I cannot support this amendment. I understand what the Hon. A. G. Corbett is saying, and I agree with him that there is a need for an education program. However, I remind him that the Special Minister of State, in replying to the bill this morning, indicated that the Government was going to undertake an education program at an appropriate time after the bill became law and when the Government's foreshadowed bill became law. My problem with the amendment is that it is simply too vague: "A date is not to be appointed for the commencement of this Act unless ..."

There is no indication of how long an education program might take. My experience of community education programs is that they are endless. They can go on for a century or so, and we could find that the public may still not have been educated by the time someone wants to bring in the bill. The Hon. A. G. Corbett said that the law should have certainty and clarity. My problem with this amendment is that I believe it would leave the bill in an uncertain position and make it very unclear to people whether the law was ever going to come in. I understand the honourable member's motives but I think his amendment would negate the whole purpose of the bill and stop it being commenced. Therefore, I oppose it.

The Hon. R. S. L. JONES [4.14 p.m.]: I support the amendment of the Hon. A. G. Corbett. The trouble with the bill is it will send out a message—and that is one of the ideas of the bill and why the Government is supporting it—that shopkeepers and others have rights that exist in common law and that they can use reasonable force against intruders. The problem is that when the bill is passed and is written up in the *Daily Telegraph*, broadcast on the radio and in other media, shopkeepers and others will think they can now use force that they were not able to before—even though they were able to before. The point is there will be much more violence against intruders and others, and some people may think they can go as far as killing people. They may believe they can use that kind of force, that it is reasonable. A person may believe it is reasonable to use whatever force is necessary, including lethal force. An education program should be implemented straight away so that people are aware that they cannot go around killing or injuring people who invade the workplace. The legislation should not be proclaimed until such time as people are aware that they cannot use excessive force and believe it is reasonable.

The Hon. Dr B. P. V. PEZZUTTI [4.15 p.m.]: I ask the Special Minister of State, one of the responsible Ministers: When will the Government pass this legislation through the lower House? When is it proposed that this matter will be promulgated by the Government, given his undertaking that there will be an education program? Will this legislation be promulgated before the Government introduces its catch-all legislation? Therefore, in the circumstances of his continuing commitment and promise, will this legislation ever see the light of day? I ask him to answer my three questions.

The Hon. J. J. DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [4.16 p.m.]: I have taken advice and I confirm what was my prejudicial view or assumption: that the lower House will pass this legislation in November. It will be on the November program of the lower House. It will be proclaimed after it has passed through all stages, and I expect it to become an operating piece of legislation at that time.

The Hon. Dr B. P. V. Pezzutti: When?

The Hon. J. J. DELLA BOSCA: It will be before what the honourable member describes as the catch-all overview of self-defence.

The Hon. Dr B. P. V. PEZZUTTI [4.17 p.m.]: So, you expect it to be passed in November and to be promulgated in due course? You also indicated during the second reading debate that you had made a commitment to an education program. How long will that education program be? I wonder how long the Minister expects this process to take, particularly since it will go to the heart of some occupational health and safety training in the workplace about how to avoid such incidents, what to do in the circumstances and what one is and is not covered for. This will require the same sort of education program that was introduced for the refusal to provide alcohol to people already drunk. So, I am wondering about the length of time the Government was proposing for such an education program, which it cannot introduce until the legislation has been passed through the lower House and the Executive Council.

The Hon. J. J. DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [4.18 p.m.]: My advice from the Minister's advisers is that the matters the Hon. Dr B. P. V. Pezzutti is concerned about have been attended to by the Attorney General. It is assumed that the legislation will be law by Christmas. The Hon. Dr B. P. V. Pezzutti is correct in saying it would be inappropriate for the education campaign that is currently being worked on by the Attorney General's Department, and which we expect to be finalised early next year, to be put in place until after the Act has actually become law.

The Hon. Dr B. P. V. Pezzutti: So it will become law before the education program?

The Hon. J. J. DELLA BOSCA: Yes, it will have to. How could one promote a possible law?

The Hon. Dr B. P. V. PEZZUTTI [4.18 p.m.]: The Minister gave an undertaking that before this became law there would be an education program so that the application of the law would be clear to people when it was proclaimed. I simply say, if the Government is now going to introduce it before Christmas or just after Christmas, how can people be educated before the law goes into force, as the Minister said in his speech during the second reading debate?

The Hon. A. G. CORBETT [4.19 p.m.]: I ask the Government whether it could give a commitment that the law will not come into effect until an education campaign has commenced. Or could they both start at

the same time? People deserve to know what their obligations and duties are under this Act. It is not meant to delay the bill, it is meant to protect people in the workplace from getting into trouble because they do not fully understand the meaning of this bill.

The Hon. J. S. TINGLE [4.20 p.m.]: I may be able to throw some light on this. I certainly hope so. Correct me if I am wrong, but I do not think that, in speaking to this bill this morning, the Special Minister of State necessarily said that the education program would start or be completed before the bill was in place. He was speaking in the context of two other things, one of which was the working party that the State Government has in place. That involves representatives of the retail traders and various other people working on some sort of acceptable arrangement to provide protection for people in the workplace. As I understand it, that working party has in fact been devising an education program on these sorts of rights.

Being the mover of the bill, my understanding of what the Special Minister of State said was that this was tied up with a much wider bill that the Government has foreshadowed for next year, which will deal with people's right of self-defence in all sorts of other areas not specific to this bill. I agree with everybody who said we need education. If we were educated we would not need this bill. We need an education program to explain to people what their rights are and are not. In the meantime, I see no reason to delay the introduction and effect of this bill, because an education program is likely to take a long time. I believe we are talking at cross-purposes when we say that the commitment was to introduce an education program before the bill.

The Hon. Dr B. P. V. PEZZUTTI [4.21 p.m.]: I am sorry to be a nitpicker, but the Hon. A. G. Corbett moved his amendment that called for an education program. The Hon. J. S. Tingle jumped up and said, "Do not worry about it. The Minister said in his second reading speech that there would be an education program." Now we find that the proposal that the Hon. J. S. Tingle spoke about is nothing but a farce. I asked the Minister when that program was going to start, how long it was going to take and how extensive it was going to be. The Minister said it was going to be brought in beforehand, but apparently it is not going to happen until after the legislation is proclaimed.

The Hon. J. J. DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [4.22 p.m.]: I do not believe the Hon. Dr B. P. V. Pezzutti asked me those couple of questions in the first round.

The Hon. Dr B. P. V. Pezzutti: I did.

The Hon. J. J. DELLA BOSCA: You did not ask me how long it was going to be or how extensive it was going to be.

The Hon. Dr B. P. V. Pezzutti: I asked you when it was going to start.

The Hon. J. J. DELLA BOSCA: You asked me when, that is correct, but you did not ask me how extensive it was going to be.

The Hon. Dr B. P. V. Pezzutti: I asked how long before the legislation it would commence.

The Hon. J. J. DELLA BOSCA: I will give the honourable member the clearest possible picture that I can. I am advised that the education program is being worked on now, as I said previously, by the Attorney General's Department. It is quite advanced and it will be put in place—and this is the form of words that I believe makes it most clear—in conjunction with the law coming into force. It makes no sense to attempt to start an education program before the law is actually the law of the land. There is obviously a time lag, but that is an unavoidable consequence of life.

The Hon. Dr B. P. V. PEZZUTTI [4.23 p.m.]: On that issue, I vividly remember the introduction of the Mental Health Bill in this State because I was one of the major architects of it. I can tell the Committee that after it was proclaimed its introduction was delayed for 18 months for an education program to enable the hands-on people and the community to understand the Mental Health Bill. It was proclaimed but its implementation was delayed until an education program was put in place. Perhaps that is what the Minister thought he meant to say but in fact he said he was going to put the legislation in place and then have an education program. That is a joke!

The Hon. R. S. L. JONES [4.23 p.m.]: The Special Minister of State spoke nonsense when he said just a moment ago that there is no point in having an education program until the bill is enacted. Supposedly, this

merely codifies what is already in the common law. It already exists in common law or it does not. There is a very good reason to have an education program right now. A booklet was supposed to be sent by police to shopkeepers in October. What happened to that program?

The Hon. J. HATZISTERGOS [4.24 p.m.]: What we heard from the Hon. R. S. L. Jones is rubbish: that we had better have an advertising campaign on the common law. It could be changed tomorrow if the court decided that the common law ought not be what it is today. That answers the sort of drivel that is coming from the crossbench. I am really bemused by the tactics of the Hon. Dr B. P. V. Pezzutti. He was not present for the division. I do not know why I am bemused. I should not be bemused, because I am not really surprised. He absented himself from the division, then came along here, anxious to debate something else and has done nothing but ask questions during the Committee stage to delay this legislation being passed through all stages today.

The Hon. Jan Burnswoods: You know why he is doing it: to stop the M5 East motion coming on.

The Hon. J. HATZISTERGOS: Oh, the M5 East. I think it is about time that this sort of nonsense was put to rest.

The Hon. A. G. CORBETT [4.25 p.m.]: This is my last comment. As I understood it, the Special Minister of State said there was no point in having an education campaign until the bill comes into effect. That is absurd. There could be an education campaign advising members of the public that on such and such a day a law will come into operation and that it will allow them to do something, or prevent them from doing something. Of course, we can have an education campaign.

The Hon. J. J. DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [4.25 p.m.]: This is my last comment. To clarify my previous comment, my advice is that the education campaign will be introduced in conjunction with the law coming into force.

Amendment negatived.

Clause 2 agreed to.

Clauses 3 to 9 agreed to.

Clause 10

The Hon. J. J. DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [4.27 p.m.]: I move Government amendment No. 1:

No. 1 Page 3, clause 10, lines 20 and 21. Omit "section 7, 8 or 9". Insert instead "section 7 or 8".

The amendment will delete a reference to section 9 that is contained in clause 10 of the bill. It is important to understand that the level of force that can be used when harm is threatened to oneself or another person is very different from the force that can be utilised when only property is threatened. This amendment is crucial because it means that the common law distinction between self-defence and defence of property is maintained. The amendment ensures that the key issue in relation to defence of property is the objective requirement that reasonable force may only be used. In addition, if the test of defence of property is adopted in its current form in the bill it would mean that a different legal test would apply in relation to defence of property to citizens arrest, even though in many factual scenarios, such as shoplifting, both would apply.

The amendment ensures that the common law consistency between the test for defence of property and citizens arrest is maintained—that is, that reasonable force may only be used in carrying out a citizens arrest and in defence of property. This means that retailers and other occupants of workplaces can easily understand that they can use reasonable force if they are acting in defence of property or if they are carrying out a citizens arrest. The Government seeks the support of the House for the amendment.

The Hon. J. S. TINGLE [4.28 p.m.]: I oppose the amendment, although I understand the purpose behind it, only because I believe that it adds a great deal of confusion to the interpretation of the bill. I understand that the Government's position is that there really should not be the same right to use force to defend

property as to defend self or another person. I tend, in general terms, to accept that proposition because I think it is not unreasonable—although, of course, in the home invasion bill the right to defend property, which I had taken out of the original bill, was put back in by the Government at a Cabinet meeting in Bathurst. I did not put it in; the Government put it in. However, the Government says that this is a different situation.

The difficulty I have with the amendment is that a person acting in self-defence in a workplace—as the Special Minister of State said this morning, it is a different proposition from a home—may have a great deal of difficulty working out exactly what it is he is defending against. Is it in fact somebody who is attempting to take property, or is it somebody who is attempting to take property and who is also threatening to clock the person who is trying to stop him from taking the property? I believe that if we remove the defence of property and only have the defence of persons or self we will create a very curious divide, which probably brings back the same sort of confusion as the existing common law already offers.

The Hon. M. J. GALLACHER (Leader of the Opposition) [4.30 p.m.]: The Opposition recognises the position put forward by the Government. However, like the view expressed by the Hon. J. S. Tingle, the Opposition believes that deleting this part of the bill would take us back a step and create more confusion about the rationale behind the development of this bill. The Hon. J. S. Tingle best put it when he said that it begged the question: Where does the defence of property cross the boundary and become the defence of one's self? Is it the moment we try to remove someone's liberty—bearing in mind that the definition of assault does not necessarily constitute a person being assaulted; a person need only believe that he or she will be assaulted—when that person can take reasonable action to prevent that assault from taking place? Clearly, this amendment falls into that category. If we try to deny the liberty of someone who is in fact absconding with property, that could cross that boundary and create further confusion.

Another point that needs to be brought home to the Government is that the Hon. J. S. Tingle has maintained consistency with respect to the definition of "reasonable grounds" in this clause. There has been some misunderstanding—I would like to think that it is unintentional—and a reference to young people stealing biscuits being the subject of an act of violence. At the end of the day, whatever action a person takes against another person in the workplace who is stealing property, the action taken by the owner or the occupant of the premises at the time must always be reasonable. That is the premise on which the Opposition does not support the Government's amendment.

The Hon. J. J. DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [4.32 p.m.]: In relation to the general points made by the Leader of the Opposition and the Hon. J. S. Tingle, it is important for honourable members to understand that there is a simple point at the heart of this amendment, that is, this is a question of required complexity, unfortunately. I know that the whole point of the Hon. J. S. Tingle's legislation—

The Hon. D. J. Gay: Required complexity? What sort of technical term is that?

The Hon. J. J. DELLA BOSCA: The reality is that there is a difference between defending oneself or other persons and defending property. It is legitimate for the defence at law in relation to those matters to be different. I think this is one time when we must accept complexity, despite the fact that we are trying to simplify the situation. In the context of this amendment, I point out to honourable members that a number of the matters raised by the Leader of the Opposition are not relevant. The important point remains that we end up with a situation similar to that referred to earlier by Ms Lee Rhiannon. Several honourable members referred to the Lee case, which is a good example of how we might talk about the major parties responding to the media.

Interestingly, the interpretation that is placed on this aspect of the argument about the difference between defending property and defending a person or persons applies to the Lee case. It is important to remember that the way the tabloid press reported the Lee case related to false reports or assumptions about the incident. I am sure the Hon. J. S. Tingle and the Leader of the Opposition do not want to create a situation in which people could get the impression that business owners are permitted to go too far. The Government wants to keep the boundaries that were in place at the time of the Lee case that resulted in the offender being prosecuted and pleading guilty for unnecessary force or assault when that person apprehended the shoplifting offender. The Government is most anxious to ensure that this amendment is accepted by the Committee and placed in the Hon. J. S. Tingle's bill.

Amendment agreed to.

Clause 10 as amended agreed to.

Clauses 11 to 13 agreed to.

Title agreed to.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

The Hon. Dr P. WONG [4.38 p.m.]: I move:

That standing and sessional orders be suspended to allow the moving of a motion forthwith that private members' business item No. 77 outside the order of precedence, relating to the Roads Amendment (M5 East Road Tunnel) Bill, be called on forthwith.

The Hon. P. T. PRIMROSE [4.39 p.m.]: I oppose this motion.

The Hon. J. H. Jobling: Just a moment. Have we gone through all the procedures?

The DEPUTY-PRESIDENT (Reverend the Hon. F. J. Nile): Order! The Hon. P. T. Primrose may proceed.

The Hon. P. T. PRIMROSE: I am speaking to the motion that standing and sessional orders be suspended to allow the Hon. Dr P. Wong to call on item No. 77 forthwith. Last April I listed an item of private members' business on the notice paper.

[*Interruption*]

I am concerned that members opposite are interjecting. Last year, along with others, I sought to introduce a more rational system of dealing with private members business in this House.

The Hon. D. J. Gay: I know a good reason why you would not want to bring your motion on.

The Hon. P. T. PRIMROSE: I am seeking to bring on a motion and it is the Opposition and some members of the crossbench who have been stopping me from doing precisely that for many months. Every Friday that we sit I come here expecting to move my motion, because it is listed as No. 2 on the order of precedence, but I abide by the decisions.

[*Interruption*]

The DEPUTY-PRESIDENT: Order! Members will remain silent and allow the Hon. P. T. Primrose to continue.

The Hon. P. T. PRIMROSE: Many members of this House unanimously decided to bring in what we believed to be improvements to the sessional orders. The sessional orders provide that we allow members to enter a ballot to decide on the order of precedence. I am not speaking on behalf of the Government, but as a private member.

The Hon. R. S. L. Jones: That's bullshit!

The Hon. P. T. PRIMROSE: I acknowledge the interjection, so it is in *Hansard*. As a private member I placed a matter on notice and waited. I won a balloted position. Every week that we sit I come here and another member seeks to jump in. We have a rational system, which I thought everyone had agreed to abide by, with some reasonable tolerance. It is 20 minutes to five and, again, it is suggested that I will not be able to bring on this motion which I put on notice in good faith. Either we have a rational system that allows private members to bring on matters that are of concern to them or we do not. My matter concerns the implementation of the goods and services tax, which is as important to me as a citizen of this State as are other matters to other members.

The Hon. P. J. Breen: But not to the people in the gallery.

The Hon. P. T. PRIMROSE: The Hon. P. J. Breen is suggesting that the people in the gallery, members of the community, are not concerned about the goods and services tax.

The Hon. P. J. Breen: It is not a matter of contingency today.

The Hon. P. T. PRIMROSE: It is second in the order of precedence. I won the ballot.

The Hon. P. J. Breen: What is first?

The Hon. P. T. PRIMROSE: First is a matter concerning firearms. If that were to come on I would fully accept it. But the Crimes Amendment (Firearms and Other Offensive Weapons or Instruments) Bill was adjourned until Friday 3 November. The next item in order of precedence, about which notice was given on 4 April, is No. 2, which is mine. It states:

That this House expresses its serious concern at the Federal Government's mishandling of the implementation of the Goods and Services Tax, and the negative impact of the tax on the citizens of this State.

I am suggesting to the Hon. P. J. Breen and others that as a private member I awaited my turn. I put my name in a ballot and won that ballot. My item is due to come on today, as it was on the last Friday that we sat. Every time we go through this someone jumps up and seeks leave to bring on another matter. I have not objected, for the most part. I have not stood up and said that my matters should take precedence. But it is getting beyond a joke. If we want to go back to the old system, that is fine. We can amend the sessional orders and not have a ballot. Then it will be everyone for themselves.

However, we all agreed on a balloted system which I, along with other members, was prepared to accept. I took my chances, I won the ballot. The goods and services tax as it relates to small businesses would be a matter of concern to citizens. I know it is of concern to members of the Government and I believe it would be of concern to a number of members of the crossbench. It is probably not of concern to the members of the Opposition and certainly not to the Australian Democrats who inflicted this insidious tax on us. This matter is equally worthy of debate in this House. Having participated in the ballot I should be allowed my turn to speak.

The Hon. J. J. Della Bosca: Yes, you are right. It is a rort.

The Hon. P. T. PRIMROSE: Yes, it is a total rort. I am not arguing this matter on behalf of the Government, I am simply suggesting that along with other private members I took my chances. I express my concern that as a private member—

The Hon. Dr B. P. V. Pezzutti: You are filibustering.

The Hon. P. T. PRIMROSE: The Hon. Dr B. P. V. Pezzutti suggests that I am filibustering.

Ms Lee Rhiannon: Brian is accurate.

The Hon. P. T. PRIMROSE: That is interesting. Am I filibustering? This is the first time that I have stood up and suggested that I should be allowed to bring on an item in a ballot that everyone agreed to. We have a principle.

The Hon. D. J. Gay: Point of order: I draw attention to Standing Order 85, which states:

The President or the Chairman of Committees may call the attention of the House or the Committee to continued irrelevance or tedious repetition on the part of a Member, and may direct such Member to discontinue his speech, provided that the Member so directed shall have the right to require the President or Chairman of Committees to put the Question that he be further heard ...

The Hon. J. J. Della Bosca: To the point of order: Mr Chairman—

The Hon. D. J. Gay: Sit down.

The Hon. J. J. Della Bosca: I have the call.

The Hon. D. J. Gay: I had not finished.

The DEPUTY-PRESIDENT: Order! I thought the Deputy Leader of the Opposition had concluded his point of order.

The Hon. D. J. Gay: No. The honourable member is deliberately wasting time. He has repeated himself no fewer than three times.

The Hon. P. T. PRIMROSE: Because you keep interjecting.

The Hon. D. J. Gay: I have not interjected even once. He has become repetitious and tiresome.

The Hon. J. J. Della Bosca: To the point of order: To my knowledge the Hon. P. T. Primrose had not repeated himself during his remarks and was speaking to the order of business.

The Hon. P. J. Breen: To the point of order: This is a case of tedious repetition. We have heard from the honourable member as to why he is concerned about the ballot system and that it is not working. We have not heard about the contingency. What is so important about the GST that is more important than the construction work by the RTA in relation to the M5 East ventilation stack?

The DEPUTY-PRESIDENT (Reverend the Hon. F. J. Nile): Order! The Hon. P. T. Primrose may continue his speech, provided he introduces new material.

The Hon. P. T. PRIMROSE: I also believe that a range of other items would be equally important. For instance, why does the Opposition not believe that Sydney's water supply, listed by the Hon. J. H. Jobling, is equally important? Other matters listed include the Technical and Further Education Commission under the name of Reverend the Hon. F. J. Nile, and Telstra. Obviously the Hon. Dr B. P. V. Pezzutti does not think that reports by the Health Care Complaints Commission are important.

[Interruption]

The Hon. Dr B. P. V. Pezzutti may not support his leader on the last matter but he certainly believes that this item is of concern. The Hon. R. S. L. Jones raised a matter concerning working groups at the salinity summit. The Hon. Jan Burnswoods has listed a matter in relation to residential parks.

The Hon. D. J. Gay: Point of order: The Hon. P. T. Primrose is definitely trifling with your ruling. I again remind you of Standing Order 85.

The Hon. R. S. L. Jones: To the point of order: The Hon. P. T. Primrose is showing utter contempt for the people who live near the proposed stack at Turella, whose lives are at risk because the Government refuses to put in electrostatic precipitators, and he is doing whatever he can to prevent that legislation from being brought on. He is showing utter contempt for the residents of Turella and for the House.

The Hon. H. S. Tsang: To the point of order: The Hon. R. S. L. Jones' interjection does not relate to the point of order. It makes no reference to the point of order that the Hon. P. T. Primrose is not speaking to the subject. The Hon. R. S. L. Jones is speaking about a matter that is not relevant.

The Hon. A. B. Kelly: To the point of order: The Hon. D. J. Gay said that the Hon. P. T. Primrose was trifling with the ruling. The ruling was that the Hon. P. T. Primrose could continue to speak, provided he did not go over old material. The Hon. P. T. Primrose then spoke about other motions, which he had not spoken about before, so it is entirely new material. He certainly was not trifling with your ruling.

The DEPUTY-PRESIDENT: Order! The Hon. P. T. Primrose may continue his speech, provided he introduces new and relevant material.

The Hon. P. T. PRIMROSE: The argument here is that a member is seeking to queue jump. I am simply suggesting—

The Hon. R. S. L. Jones: You supported John Tingle's queue jump, didn't you?

The Hon. P. T. PRIMROSE: Yes, and I have supported many others. Honourable members do not seem to understand that my simple argument, as I have said clearly, without repeating myself and going against the ruling, is that I have been extremely tolerant as a private member.

The Hon. Dr P. Wong: Until now.

The Hon. P. T. PRIMROSE: Until now—because we go on, and on, and on.

The Hon. Dr P. Wong: You have such honesty, such integrity and such principle!

The Hon. P. T. PRIMROSE: Yes, such principle.

The Hon. Dr P. Wong: You have integrity, you are honourable—you are fantastic!

The Hon. P. T. PRIMROSE: Thank you.

The Hon. Dr P. Wong: I was being sarcastic.

The Hon. P. T. PRIMROSE: Oh, you were being sarcastic. I am sorry, I did not pick up on that. I presume the Hon. J. M. Samios believes that his item, item No. 9 in the order of precedence, relating to the Howard Government's strategy to develop Sydney as a financial hub of the Asia-Pacific region and applauding the recommendation of a Regional Financial Centre Task Force, is a matter that is a worthy of consideration in this House. I do not seek to trifle with the ruling, so I will conclude. I simply emphasise that motions to be moved by private members who are members of the Government in this place, which pursuant to the sessional orders of this House are drawn out in the ballot, are of equal relevance and importance to all other matters.

The DEPUTY-PRESIDENT: Order! I remind members that the House is in charge of its own business and that members may either accept or reject the motion moved by the Hon. Dr P. Wong.

The Hon. JAN BURNSWOODS [4.53 p.m.]: I also strongly oppose the motion to bring forward this item out of the order of precedence. That is partly because I too have a notice of motion within the order of precedence, item No. 8, which relates to the very important issues facing permanent residents of residential parks. My concern is that I, like the Hon. P. T. Primrose, have for the whole year operated under a system that members agreed to unanimously, and I want to debate my motion. I remember the discussions we had when most members of this House, but particularly members on the crossbenches, said how unhappy they were with the system of conducting private members' business. A number of discussions took place, and we came up with a new sessional order which everyone agreed to, which involved a system of members giving notice of items they wished to discuss and then every so often having a ballot to determine 12 items in the order of precedence.

As I said, that motion came predominantly from members on the crossbenches who were unhappy about the way in which items they wished to discuss often were not reached, for a variety of reasons. I noted today, for example, that the first matter we debated and on which we spent so long, the Hon. J. S. Tingle's matter, was item No. 49 outside the order of precedence, even though the Hon. J. S. Tingle also has item No. 1 in the order of precedence. I know that that matter had been adjourned until 3 November, but of course so often those adjournments are themselves a tactical move.

We are now debating whether to suspend standing orders to debate item No. 77 outside the order of precedence. I remind the House that only the first nine items are in the order of precedence; the others are on the list but are outside the order of precedence. It was also my understanding that there was to be a competitive situation because the Hon. Dr A. Chesterfield-Evans intended to attempt to bring forward item No. 84, relating to fish, in competition with the Hon. Dr P. Wong bringing forward item No. 77, relating to the M5 East. The whole situation has got out of hand. We no longer know from one week to the next what the House is going to debate. We have all of this horse-trading—basically, "You scratch mine and I'll scratch yours."—and we continually have a complete failure to deal with the items in the order of precedence in the way that the entire House agreed on last year.

Last year the House debated a bill that I introduced to equalise the age of consent between heterosexual and homosexual men so that the law applied equally to homosexual men and heterosexual men. I do not wish to canvass the issues of that important debate here, but I wish to remind members that that matter was a bill rather than a motion, and we discovered that the sessional order that had been drawn up earlier last year was deficient and defective in a number of respects. Again, with the unanimous agreement of the House, the sessional order was rewritten quite substantially in the latter part of the year to deal with issues such as whether there could be a debate on the first reading, whether time limits applied to the first reading, and so on. All of those matters are now relevant to the motion of the Hon. Dr P. Wong. They were discussed officially and unofficially among all of the groupings in this House, and the sessional order in relation to private members business was amended and adopted again in the latter part of last year.

On two occasions last year this House discussed, and unanimously agreed to, a sessional order that prevented the Rafferty's rules we have had for so many years in this House. Every member of the House—including the Hon. I. Cohen and all the other members who have been interjecting while I have been speaking, as well as the members who tried to waste the time of the House by trying to stop the Hon. P. T. Primrose speaking—agreed that the procedures relating to private members' business were very unfair and needed reform. Twice last year we went through the whole process. I am fairly certain that on no occasion this year have we followed the sessional order.

The Hon. R. S. L. Jones: Point of order: The Hon. Jan Burnswoods is being extremely boring and repetitious. We are all falling asleep listening to her appalling speech. She is showing utter contempt, as is the Government, for the people who will be affected by the stack at Turella. The Government does not care about the people's lives who will be affected. People will die because of that stack, and this Government will pay the price. The Hon. Jan Burnswoods is now filibustering and taking all the time she can to make sure that the matter is not reached tonight. The Government is showing contempt for the residents of Turella. It does not deserve to have any seats anywhere near that stack. I am sure that the people of Turella will make sure that Labor loses some of those seats at the next election, given how they are being treated with such contempt.

The DEPUTY-PRESIDENT (Reverend the Hon. F. J. Nile): Order! The Hon. Jan Burnswoods may continue.

The Hon. JAN BURNSWOODS: That was a very interesting speech from a member who has item No. 7 in the order of precedence. The Hon. R. S. L. Jones thought on 4 April that salinity might be an important issue in this State, but apparently he no longer thinks that. The 86 items on the business paper include a very large number from the Hon. R. S. L. Jones, but apparently he no longer considers salinity, or Sydney's water supply, or any of the other issues on the business paper in his name to be important.

The Hon. Dr P. Wong: Point of order: The Hon. Jan Burnswoods is flipping around her notes and going nowhere. She is making nonsensical statements. This is ridiculous. The member is supposed to be pro-environment but she is showing a total disregard for the environment. Her comments are irrelevant and she is not making any sense at all.

The Hon. JAN BURNSWOODS: The Hon. Dr P. Wong was not taking a point of order. It may have been offensive, but it was certainly not a point of order. I assume, therefore, Mr Deputy-President, that you will rule that it is not a point of order. May I continue?

The DEPUTY-PRESIDENT: Order! Members should not take points of order merely because they do not agree with another member's contribution. There is no point of order.

Pursuant to sessional orders business interrupted.

SPECIAL ADJOURNMENT

Motion by the Hon. E. M. Obeid agreed to:

That this House at its rising today do adjourn until Tuesday 31 October 2000 at 2.30 p.m.

ADJOURNMENT

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [5.02 p.m.]: I move:

That this House do now adjourn.

DEATH OF ROGER BEDE NOTT, CBE, A FORMER MINISTER OF THE CROWN

The Hon. A. B. KELLY [5.02 p.m.]: I wish to make some comments on the passing of the Hon. Roger Bede Nott, CBE, 1907-2000. Roger Nott was born in Gulgong in 1907 and was raised in Dunedoo. After leaving school, Roger worked as a shearer and a share farmer before buying his own wheat farm at Dunedoo. This background gave him a strong understanding of the country and the vital role governments could play in unlocking the potential of rural and regional communities. Roger was elected as the member for Liverpool Plains in the great victory of McKell in 1941. His victory in Liverpool Plains was a particularly sweet one for

the Australian Labor Party, it having been a blue ribbon Tory seat since 1916. His election reflected his widespread appeal in country New South Wales and a desire to pursue the interests of rural and regional communities, which characterised his next 20 years as a member of State Parliament.

Roger Nott's death made me once again reflect on the McKell and Labor achievement of 1941. What a marvellous victory! Labor picked up 24 seats, taking its representation in Parliament to 55 out of a total of 90 seats. That is similar to the situation today where the Government holds 55 out of 93 seats. Not only did the United Australia Party—the forerunner of the Liberals—lose 20 seats, going from 34 to 14 seats, but the then Country Party—then, as it is now, the junior partner in the Coalition—was mauled by the electorate, losing nine seats and being reduced to a fractious rump of 12 members; again, similar to the situation that pertains today. The Country Party, like its modern equivalent the National Party, failed to listen to the bush and, in turn, received a mauling.

The Country Party's press at the time raised themes that still dog the Nationals. The *Bulletin* said that country voters were dead tired of the alleged Country Party, whose calm, settled, self-satisfied stodginess is relieved only by the occasional impertinence of its leader. Other media reported that the close alliance between the Country Party and the United Australia Party had disgusted many and that the Country Party had remained singularly quiet, although the conservative Government had persisted in a course that could never be described as remotely beneficial to the country.

The *Daily Telegraph* commented that the Country Party was incapable of outgrowing its parish-pump bitterness, its little squabbles and its sectional rancour and concluded that the pettiness of the Country Party is intolerable when the whole State expects a bigness of vision from its leaders. The Country Party may have changed its name, but it seems that little has changed with the former Country Party now, almost 60 years further down the track.

Roger Nott rode to victory in Liverpool Plains—a seat roughly equivalent to the modern Upper Hunter electorate—through a combination of Country Party apathy and a McKell Labor Party victory which had the bigness of vision for both city and country areas. Roger was one of McKell's horses for courses who—together with the likes of Jack Renshaw, who was the honourable member for Castlereagh; George Enticknap, who was the honourable member for Murrumbidgee and who, incidentally, campaigned under the Country Labor banner and was elected to this Parliament in 1941 as a member of the Country Labor Party; Bill Sheahan from Yass; and Eddie Graham from Wagga—would play an important role throughout the next quarter of a century.

The year 1941 was the beginning of 24 years of Labor rule. For two decades of that era, Roger Nott served the people of Liverpool Plains and those of rural and regional New South Wales in general. During that time he served as Secretary for Lands and Secretary for Mines in 1956-57, Agriculture Minister in 1957-61, and Minister for Food Production from 1957 to 1959. They were productive years for this State. A favourite story reflecting Roger's commitment to the State is that, after breaking his hand in a game of tennis, he made sure that his plaster was cast in such a way that he could continue to sign important legislation in his capacity as Minister for Agriculture—yet another great example of Labor's commitment to the men and women of New South Wales.

That great record stands as a testament to this former shearer, farmer and proud Labor man who understood the concerns and aspirations of country communities and who embodied the role that the Labor Party has always played in improving the lives and livelihoods of rural and regional people throughout New South Wales. I am reminded that Roger's brother, Leo, was the member for Mudgee from 1953-68 and the member for Burrendong from 1971-73—an electorate which included part of my property. The passing of Roger Nott—a life member of the Australian Labor Party—is a great loss. It tragically marks the passing of another important participant in Labor's coming of age in New South Wales politics and its total dominance in the 24 years between 1941 and 1965. It is with great sadness that I note the passing of Roger Bede Nott. On behalf of the ALP, I extend my sympathies to his wife, Mary, and his family.

DEATH OF DONALD DEWAR, SCOTLAND'S FIRST MINISTER

The Hon. M. J. GALLACHER (Leader of the Opposition) [5.07 p.m.]: I seek the indulgence of the House to put on record my thoughts about the passing of one of modern day's leading political statesmen and my sadness that his immeasurable contribution to the sovereignty of my birth nation and his death have not been mentioned in the popular written media in this country. Donald Dewar, Scotland's First Minister, passed away last Wednesday following an accident at his home in Edinburgh. Dewar, who was aged 63, became Scotland's

First Minister in May 1999, having previously served as Secretary of State for Scotland prior to devolution last year. Members would remember that historic, golden day in 1997 when a referendum of the Scottish people recorded that 74 per cent were in favour of having their own Parliament. Subsequently, the people of Scotland entrusted Dewar with the task of steering the devolution legislation through the Westminster Parliament. Thereafter, Dewar took his rightful place and represented the Scottish Labour Party in the 129-seat Assembly.

Dewar was recognised for his unshakeable decency, honesty and humour—widely held and accepted Scottish characteristics. Donald Dewar maintained his commitment to his working-class roots and flew in the face of the populist New Labour politics that others around him had embraced. Some referred to him as being old-fashioned, but it was that very quality that afforded him the support and love of the Scottish people—even those who are as far away as Australia. His calls for devolution can be traced back to 1967. Indeed, that was a courageous move for a Labour politician at that time. Living in the city of my birth—Glasgow—in 1975 was my introduction to the Scots' desire for home rule. The creation of the first Scottish Parliament in 300 years gave Scotland the means to develop Scotland's rightful place in both Europe and the world.

Honourable members could be excused for not knowing of his passing if their only means of keeping up with world affairs was limited to popular written media in this country. Dewar's recent passing coincided with that of another great statesman, Pierre Trudeau of Canada, but the media space accorded both were worlds apart. When one considers the contribution of the Scottish people to the development of our great nation and the creation of the rich tapestry of cultures that has made Australia the envy of the world, more could have been written about this man who devoted most of his professional life to fighting to give Scotland its own name and place in the world. God bless him and what he has given the people of Scotland.

BUILDING WORKERS ASBESTOS HEALTH RISKS

The Hon. JAN BURNSWOODS [5.10 p.m.]: I draw to the attention of the House the ongoing problem of asbestos that is facing building workers. Many members of this House believe that asbestos problems have been dealt with very well by this Government. I certainly pay tribute to Jeff Shaw for the variety of things he has done in that regard. Nevertheless building workers continue to be confronted with an intolerable risk to their health and, indeed, their lives. Two weeks ago it was discovered that a demolition site at Zetland was riddled with asbestos. Excavators had been working at the site for two months without protective clothing, despite the fact that the hygienist's report delivered to the company responsible for the excavation had declared the site to be riddled with asbestos.

The irresponsibility of the companies involved for allowing work to proceed without clearing the site, despite the information in the hygienist's report, should be of serious concern to the Parliament and to the people of Sydney because of the proximity of the site to the city and residential areas. The 10-hectare site, fewer than five kilometres from the central business district and across the road from residential areas, was covered in pieces of asbestos the size of 20¢ pieces. WorkCover ordered the construction company responsible for the excavation to clear the site before the workers returned. Gardner Perrot, the excavators; Landcom, the owners of the site; and the Incoll group, who will build on the site once it has been cleared, are currently in the process of formulating a clean-up plan for the site before the workers return.

It is of serious concern that workers are still exposed to asbestos when the life-threatening effects of exposure to it are so well documented. The continued discovery of asbestos at work sites provides an unnecessarily dangerous environment for building workers. Our Government has a good record in introducing measures to protect workers. Honourable members will recall the incredibly debilitating effects of asbestos over the years. For instance, I remember its effect on Aboriginal people on the former reserve at Baryulgil, and we are all aware of insurance companies deferring and deferring the cases of victims suffering from mesothelioma until the victims died.

The Government has a good record on the whole of introducing measures to ensure that workers, particularly those doing demolition work, are protected from the ill-effects of asbestos by wearing protective clothing, taking care and preplanning. Unfortunately, it is obvious that some companies continue to ignore the problem, and there are others that, for whatever reason, do not consider in advance that asbestos may be on the site. I will certainly raise this matter where I can. Because of the perception that asbestos-related problems have been resolved, there is not as much vigilance as there should be. I will make sure that the Government and the building industry are aware of the need for vigilance and continued monitoring of asbestos to ensure that workers are not exposed to such toxic substances.

REFUGEES AND ASYLUM SEEKERS

The Hon. Dr P. WONG [5.14 p.m.]: I have watched with great concern the recent developments in detention centres for people applying for refugee status, and Australia's changing policy on United Nations human rights agreements and committees. I have discussed this issue with a number of organisations that work with asylum seekers. These are national issues which directly affect and concern the people of New South Wales, and should concern this Parliament. Australia is about the only country in the world that locks up all people who arrive by unofficial means and then apply for refugee status. Most other countries do not lock up refugees and asylum seekers, because it is too expensive and unnecessary.

Last year 4,000 people were locked up, including 400 children. Typically they were locked up for several months. It would be sensible, as in other countries, to allow most of them to live in the community while their applications are processed. Most are not a security or health risk, and while they are in the community the Government could still monitor their movements. The Government could still detain the small number that are considered a risk. The Federal Government argues that it has to lock up these people to deter others making their way to Australia by boat or plane. But this strategy has not worked. In 1994, when Australia started mandatory detention, it had only a few hundred asylum seekers in detention. By last year it had 4,000. The real cause of the increase is organised people smugglers. The Government is right to go after people smugglers, but it should not deal cruelly with genuine refugees and asylum seekers who arrive in Australia.

It must be remembered that most people who arrive here by boat or plane are genuine refugees. They are no different from refugees who arrived from Vietnam in the 1970s, or those who arrived from Europe in the 1940s and 1950s. Many are escaping danger and persecution in Iraq and Afghanistan. If forced to return to those countries they would face possible torture or execution. The conditions in the Villawood detention centre in Sydney's western suburbs are poor. The people detained there have few legal rights. The children locked up there receive no education, and some young children have been imprisoned for more than a year. When Villawood is full, asylum seekers are moved to Silverwater prison, and they find the conditions there much better.

Detention centres are not meant to be worse than prisons. In July, several inmates of Villawood went on a hunger strike for a week in protest at conditions and because they were being detained for so long while their applications were processed. Woomera detention centre in South Australia is, if anything, worse than Villawood. The recent violence there cannot be condoned, but it is not too surprising that some of the inmates set fire to the centre at Woomera. Those who rioted will probably be better off in gaol than in a detention centre or being forced to go to Iraq to face a dangerous future. The United Nations is concerned about Australia's forced detention of asylum seekers. Australia has helped draft, and has signed, a number of United Nations human rights conventions, including a refugee convention. Australia has been a leader in human rights for many years and has supported the work of United Nations committees throughout the world. The Australian Government's November 1999 submission to the review of the United Nations committee process says:

It is a duty of states to promote human rights and fundamental freedoms. A corollary of this is the acknowledgement by the community of nations that respect for human rights is a legitimate matter of international concern, and not the exclusive preserve of national governments.

But recently Australia has had its own human rights record found wanting by the United Nations. In a disturbing move, the Australian Government responded by attacking the United Nations human rights committees, and announced its intention to scale back its co-operation with the United Nations committees. Australia's Minister for Foreign Affairs, the Attorney General and the Minister for Immigration are now arguing that the United Nations has no right to interfere in Australia's domestic issues, such as the mandatory detention and treatment of asylum seekers. That was the argument used by the governments of South Africa in the apartheid era, and it is an argument that is still used by many other governments who abuse human rights.

Mary Robinson, the United Nations' Human Rights Commissioner, has pointed out how damaging Australia's new position is to human rights throughout the world. As an affluent country and a previous leader on human rights, the whole system of the United Nations human rights charter is undermined by Australia's position. Other countries will point to Australia and use our arguments as justification for their own human rights abuses. What concerns me most is that the Federal Government is taking Australia in an anti-democratic direction. Today I have mainly talked about asylum seekers, but the erosion of human rights affects us all. Australia is now locking up asylum seekers in poor conditions for no good reason, denying legal rights to asylum seekers, creating fear and hatred of a minority group, silencing opposition groups, using excessive force such as water cannons to deal with protesters and ignoring United Nations human rights conventions. I am

worried. It threatens our modern liberal democracy. This is Sydney in 2000, not Berlin 1936 or Sarajevo 10 years ago. I am not saying we are about to turn into a dictatorship, but democracy and liberties can be lost gradually.

HIGHER SCHOOL CERTIFICATE EXAMINATION

The Hon. PATRICIA FORSYTHE [5.17 p.m.]: On the last sitting day before the Higher School Certificate examinations commence I want to offer my very best wishes to the 63,000 young people and, indeed, some mature people who will be sitting for the Higher School Certificate from Wednesday of next week. For each of those students I am sure it is an important day and an important time. Only in later years will they look back and reflect that the Higher School Certificate did not have quite as much significance as they thought at the time. For many of them who have worked hard, and even for others, there will be many opportunities for other career steps and the Higher School Certificate will only be part of that. However, I accept that at the moment for them these are probably the single most important days of their lives. If I were a teacher, I would remind them all about the clear instructions of reading exam papers, remembering all the lessons they have been taught in recent years about how to approach the exams and accepting that they are in the same boat as many others, as lonely as they may feel at some time in those exams.

However, at the end of the day it is part of a bigger picture. They will receive the results in December. While some will be elated, some will feel it is the end of the earth. But many other opportunities are available. For those who perhaps do not achieve the mark they want to get into university, another course and some good credit passes within a year may result in them changing faculties to something that may have been their first choice. For others it will not be university but an opportunity for further training. I believe that the completion of 13 years of schooling provides the opportunity for further training; the world is indeed open to them. I hope they all get the rewards to which they are entitled and that those who have genuinely worked hard and made that commitment get the opportunities and rewards they expect.

We need to remember that this is a time of great pressure. In some schools students will certainly be under enormous strain. Imagine the pressure many of those students on the lower North Shore will be under after one of their classmates was tragically murdered last Saturday night, or the pressure felt by the students in Dubbo who throughout this year have had great concern about the future of their principal and have regularly held assemblies outside his home. I hope they are given special consideration, although I am not so sure the department shares their view. The students who were members of the Australian Olympic team will now have to turn their attention to these exams. We think of them as we think of all students, of course; we think of them as if they have been going about their lives in a normal way.

For many of them these exams come at a time of other pressures of which we are not be aware. I am always conscious that there are circumstances that require special consideration, whether it is illness, a death in the family or other special circumstances. I am sure all other members of the House join with me in wishing the students well. It is an important time for them. The Higher School Certificate is a significant examination and throughout its history in New South Wales it has represented the pinnacle of good education. It is well regarded across the world. While I welcome new directions for the Higher School Certificate in future years, we need to acknowledge that these students are sitting for the examination now and wish them all the very best for Wednesday of next week and the following days.

PARALYMPIAN STEPHEN WILSON

The Hon. ELAINE NILE [5.22 p.m.]: I pay tribute to a young man who next week will be taking part in the Paralympics. In Germany in 1996 Stephen Wilson ran the 100 metres in 11.78 seconds. That is fairly quick but hardly earth shattering. It is almost two seconds short of Maurice Greene's world record of 9.79 seconds. What makes that time exceptional is the fact that 14 years ago Stephen was in an accident. He was hit by a truck and doctors were forced to amputate his right leg just below the knee. He was 13 years old at the time. The accident was two days before an athletics carnival in which he had hoped to compete. Stephen said:

I had no idea what an amputee could do. I thought that was it.

However, after having an artificial leg made, he soon discovered that he was fairly mobile and could still compete athletically with his friends. While he never played rugby again he continued to play sport at Newington, the school he attended. In year 10 he was a member of the school's seconds basketball team. Stephen said:

I've never begrudged my accident. I just accept it. I remember when I was in the hospital an old Christian guy came and saw me and said, "You know, there's a reason why God allowed this to happen in your life. You mightn't understand it now but in the future it will be clear". I have always held onto that.

I don't know if running has got anything to do with it, but I can see how God has used my leg in a lot of instances. Actually, I feel almost special. It didn't shake my faith at all. If anything, it strengthened it.

Stephen had grown up in a church family but it was not until he was 13 that he decided to follow Jesus after hearing, as he recalls it, "a fiery gospel message". Stephen took up competitive running again only three years ago. He said:

I went and saw the Australian Disabled Championships in '96. It was the selection meet for Atlanta. It was the first time I had seen another amputee run. I saw what they did and I thought I could do that as well.

A few months later he visited a prosthetist, had a sprint leg made and started training. He admitted, "I've got a fairly competitive streak." Stephen's prosthetist, David Howells, has been a great support. Stephen said:

He has put hours of time into making legs free of charge and has sponsored me. My spring leg is probably worth about \$10,000.

At the Nationals in 1996, after about three months of training, Stephen won gold in the 200 metres and silver in the long jump. Later that year in Germany he ran the 11.78. This was 0.4 of a second outside the amputee world record for 100 metres. Stephen said:

I guess after running that quickly so soon I thought it was terribly easy.

But when he returned home, his times started getting slower:

For some reason I had a big slump.

Fortunately his form is now returning. In June he was a member of the Australian 4 x 100 metres amputee relay team which set an unofficial world record during a training camp. He said:

We were racing the Australian women's team [that is, the able-bodied team] and we beat them by about five to seven metres. In the process we beat our own world record by about 0.8 of a second.

Stephen is to compete at the Sydney Paralympics in the 100 metres, 200 metres, 400 metres, 4 x 100 metres relay and 4 x 100 metres relay. He will be very busy up until then. Along with four track sessions and two weights sessions a week, he helps run a youth group at his church and is studying to become a PE teacher. In December, he is getting married. Stephen said:

The Australian Paralympic team has been very successful. In Atlanta it came second.

Compared to the many world-record holders and gold medallists in the current squad, Stephen considers himself to be "just an average athlete". The team, according to Stephen, is a "strange mix of people". He commented:

"It's funny because you've got a range of disabilities. You've got amputees, wheelchair athletes, people with cerebral palsy, and the intellectually disabled."

He then said:

Everybody gets on surprisingly well. I think everybody tends to be fairly down-to-earth because they have disabilities. They understand each other. Most of the Paralympians are very easy-going with their disabilities because they use them for success.

As with many sporting teams, Stephen finds himself being the only Christian. He said:

I think you've got to be fairly strong, know exactly where your faith stands and what it means to you.

Stephen's Christian faith attracts attention:

I've had talks with different Paralympic team members just from sharing a room. I'll get up in the morning and start reading my Bible or something, and they'll start talking. Sometimes I've got into some fairly deep conversations.

I would like to wish Stephen all the best for next week and the following week. I congratulate him on studying to become a PE teacher and on the fact that in December he is to be married. We wish him all the best.

TRANSPORT FOR LIVEABLE CITIES SEMINAR

The Hon. I. COHEN [5.27 p.m.]: On behalf of the Greens I would like to congratulate all involved in the realisation and presentation of the transport for liveable cities seminar held in this building on Wednesday 11 October. The Greens are committed to public transport and are pleased to see such events highlighting the problems of our Sydney transport system and proposing positive solutions for our situation. We are very

fortunate to have such a concentration of renowned urban transport experts in Sydney for the liveable cities seminar, and it is good that the Minister for Transport attended the opening phase. It is a shame he was not there for the entirety as there was a great deal of material presented which could address Sydney's transport issues.

It is disappointing that the New South Wales Department of Transport was not a sponsor of this event. It concerns me that the department is known for a lack of concerted commitment and action in effectively addressing Sydney's public transport needs. We can learn much from European public transport operations and planning. It is where state-of-the-art systems are found. There is no point looking to the United Kingdom. The Thatcher decades destroyed the British bus industry and dismembered the railways with her strong privatisation program. The United States of America, sadly, also shows how not to do the job that needs to be done. Years of poor planning have now left an appalling urban legacy. Just take a trip to Los Angeles—a city bathed in perpetual exhaust fumes from millions of cars congesting thousands of kilometres of "freeways". Even so, that city's belated attempt to fix its problems with the construction of mass transport systems is laudable.

I note that the keynote speaker was Dr Vuchic, Foundation Professor of Transport at the University of Pennsylvania. Dr Vuchic has been quoted before in this House by my Greens colleague, Ms Lee Rhiannon, in the context of his criticism of the Minister's favoured bus-only transitway program slated for western Sydney. The Greens hope that the Minister for Transport is realising that the bus transitway solution system promoted by the Roads and Traffic Authority and the Department of Transport for western Sydney has substantial flaws. The bus-based solution will benefit the private bus operators in western Sydney but is a much less than ideal solution for the commuters and residents of the western suburbs, who so desperately need effective transport solutions to move them efficiently throughout the region. We also have concerns that the busways will simply be converted to freeways when they inevitably fail to attract substantial patronage in western Sydney.

Buses play an important transport role and are effective in a range of circumstances. They are best on short-haul, low-volume routes. This is not the situation in the western suburbs. The size and population spread of the western suburbs is such that light and heavy rail are required to meet the various needs of this poorly serviced area. Much can be done to address the high level of car reliance in Sydney. The bus-only transitways are not the best way forward. The Greens support the community's effort to turn around this motorway thinking. The future of this city depends on a massive rethinking of the basis of transport planning. This week's seminar demonstrated that there are public transport alternatives to increasing pollution, rising travel times and declining urban amenity. It is up to the Government to accept the challenge, join with the community and not work against it. The Greens will continue to actively campaign for effective public transport in Sydney.

Motion agreed to.

House adjourned at 5.30 p.m. until Tuesday 31 October 2000 at 2.30 p.m.
