

## LEGISLATIVE COUNCIL

Wednesday, 18th November, 1992

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

**The President** offered the Prayers.

### DISTINGUISHED VISITORS

**The PRESIDENT:** I announce the distinguished presence in my gallery of Dr Alexandre Vassalo, the Consul-General of Portugal and Dean of the Consular Corps, Sydney, accompanied by Mr Keith Goddard, the Consul of Honduras and Secretary to the Consular Corps.

### COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION) AMENDMENT BILL

**Bill received and read a first time.**

**Suspension of certain standing orders agreed to.**

### PETITIONS

#### Forestry Commission

Petition praying that the Forestry Commission of New South Wales be reformed in accordance with the recommendations of the Public Accounts Committee and that the House urge the Government to act immediately for the good of our environmental heritage and the health of the plantation timber industry, received from the **Hon. R. S. L. Jones**.

#### Abortion

Petition praying that because of community support for the continued availability of abortions and a woman's right to choose abortion and the continued availability of counselling services for abortion clinics, the House not support any restriction of existing abortion services, received from the **Hon. Ann Symonds**.

### OFFICE OF ABORIGINAL AFFAIRS

#### Adjournment (S.O. 13)

**The PRESIDENT:** I have received from the Hon. Elisabeth Kirkby a notice under Standing Order 13 that she desires to move the adjournment of the House to discuss a definite matter of urgent public importance, namely:

The problems and needs of the people of Toomelah and Aboriginal

communities in general, as identified in:

- (a) the report of the Ombudsman entitled "Investigation into the conduct of the Office of Aboriginal Affairs following a complaint by the Toomelah Local Aboriginal Land Council and the Toomelah Aboriginal Co-operative" dated 9th November, 1992;

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- (b) the report of the Ombudsman entitled "Concerning maladministration of the Office of Aboriginal Affairs and the consequences upon the people of Toomelah and Aboriginal communities in general" dated 12th November, 1992; and
- (c) the report of the Human Rights Commission entitled "Toomelah Report - Report of the problems and needs of Aborigines living on the NSW-Queensland Border" dated June 1988.

**Motion by the Hon. Elisabeth Kirkby agreed to:**

That the subject is urgent.

**The Hon. ELISABETH KIRKBY** [2.42]: I move:

That this House do now adjourn.

To establish urgency honourable members need only note the three reports referred to in the motion: the report of the Ombudsman entitled "Investigation into the conduct of the Office of Aboriginal Affairs following a complaint by the Toomelah Aboriginal Land Council and the Toomelah Aboriginal Co-operative", dated 9th November of this year; the report of the Ombudsman entitled "Concerning maladministration of the Office of Aboriginal Affairs and the consequences upon the people of Toomelah and Aboriginal communities in general", dated 12th November, 1992; and the report of the Human Rights and Equal Opportunity Commission entitled "Toomelah Report - Report of the problems and needs of Aborigines living on the NSW-Queensland Border", dated June 1988. Last night the television program the "7.30 Report" clearly showed that, in spite of the protestations of the Government and what public authorities involved with Aboriginal communities in New South Wales - particularly with the people of Toomelah - may have wished to do, nothing substantial has been done and the plight of the people of Toomelah is as bad as it has ever been. That fact cannot be denied; there is now photographic evidence. It is simply no use the Government trying to say that the housing has been provided, and that roads and the sewerage and water supply have been fixed, when a television crew can take the type of footage that was shown on last night's "7.30 Report" program. If honourable members have not seen the report that went to air last night on Australian Broadcasting Corporation television, I would recommend that they do so as a matter of urgency.

**The Hon. J. M. Samios:** Marcus Einfeld said that, since he delivered his report, conditions have improved by 1,000 per cent.

**The Hon. ELISABETH KIRKBY:** He also qualified that remark. If conditions have improved by 1,000 per cent since then, I dread to think what conditions must have been like prior to his report of 1988. During the non-sitting week at the beginning of this month I attended a conference in Colombo, Sri Lanka. The day after

the conference ended, some delegates - I was one of those delegates - had organised to go on a trip outside Kandy to visit a community school and a district hospital. We went off the tourist track, right off the beaten track, and away from the capital city of Colombo and the seat of government in Kandy. Though Sri Lanka is a developing country, where there is known to be gross poverty, on the tour I did not see housing of the type that members of our Aboriginal community are living in, I did not see roads like those in Toomelah as shown on the "7.30 Report" last night, and I did not see children who were suffering in the way the children of Toomelah are suffering. That such conditions exist is a disgrace on our nation. We can find money for all sorts of things, but we cannot find money to assist the black communities of this State.

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The debate today is not about blame; it is about human rights. The Ombudsman's report, which was issued on 9th November, 1992, highlights the fact that the people living in the Aboriginal community of Toomelah, on the border of Queensland and New South Wales, are still being denied adequate housing, sewerage, transport, roads and police services. The access of the people of Toomelah to these basic services is inextricably tied to their Aboriginality. It has been suggested that the problems faced by the people of Toomelah are being faced by other Aboriginal communities as well. I know that from my own experience, having visited another grossly disadvantaged settlement at Baryulgil - also in the northern region of New South Wales. It seems to me that the problem is a mixture of racism - this may be inadvertent, but there is no doubt that it exists, as we members of the Standing Committee on Social Issues found out when we made trips to the west of the State when we were investigating the juvenile justice reference - and an inability to co-ordinate the different government organisations which are responsible for providing basic services to Toomelah. I have discovered in the last 24 hours that 22 different government departments deal with the people of Toomelah. Is it any wonder that those services cannot be co-ordinated when so many different departments are involved - each with a different agenda and different problems? Obviously, there is a need for a strong co-ordinating body. However, as we learned from the Ombudsman's report, the Office of Aboriginal Affairs is not fulfilling its functions. The functions of the Office of Aboriginal Affairs, which are listed on page 12, part 4, of the Toomelah report, are as follows:

Monitor and review the present Aboriginal land rights legislation.

Co-ordinate Aboriginal Land Councils and ensure proper financial management and accountability.

Certainly, it has failed in that respect at Toomelah. The report continues:

Prepare specialist policy advice on all aspects of Aboriginal affairs to Premier and Parliamentary Secretary.

Co-ordinate and evaluate all state Aboriginal affairs policies and programs.

Advise and assist Aboriginal community agencies when appropriate.

Therefore it is clearly the duty of the Office of Aboriginal Affairs to co-ordinate the 22 different government departments. What is of even greater concern to me is the response of the Premier to the Ombudsman's report, as reported in *Hansard* and in the *Sydney Morning Herald* today and yesterday. In another place the Premier made some extremely

inaccurate statements, to put it mildly. He said:

The targets for roads, housing, community and medical services set by Mr Justice Einfeld have largely been met.

I hope the Premier saw the "7.30 Report", because the sewerage and water needs of Toomelah have not been met. Some roads in the area may have been sealed, but certainly large areas of road are not in a fit condition to stand up to the extreme weather conditions which are a feature of the climate of that part of New South Wales. I do not know how the Premier could possibly believe that these targets have been met; they have not even been met in material terms. The Premier was also at pains to point out that the Government has spent more than \$7 million since 1988, but there is no doubt that, whether or not \$7 million has been allocated and spent, it was obviously insufficient to rectify the problems that were brought to the attention of the Ombudsman by the people of Toomelah and brought to attention of the people of New South Wales through the ABC

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program. Regrettably, money alone never ensures that services are provided. In today's *Sydney Morning Herald* Mr Fahey is reported as saying that sewerage and water facilities were being maintained at Toomelah by the Moree Plains Shire Council.

However, this statement has been flatly contradicted by a clerk at the Moree Plains Shire Council, who said that the council had no authority to do the work but was trying to arrive at an agreement which would give it this authority. This is after four years. If it takes a local council four years to get authority to provide a suitable sewerage and water supply system, the people of Toomelah will be waiting until the end of the decade before anything further can be done. It is unconscionable for the Premier to attempt to smooth over the issues as though they did not exist. The Ombudsman told the media: "I have never, since I have been Ombudsman, found such resistance to a report . . . from the Premier". While the Premier is trying to maintain a political front, the people of Toomelah are faced with substandard services, as are many other Aboriginal communities. It cannot be allowed to continue. When will the Government take genuine action to ensure that the basic human needs of Aboriginal people are met? The problems faced by the people of Toomelah were first highlighted in the Toomelah report brought down by Mr Justice Einfeld in June 1988. A preliminary investigation by Commissioner Irene Moss reported the following:

Toomelah, eighteen kilometres to the south-east of Boggabilla, has a population of about five hundred residents, all of whom are Aborigines. More than two-thirds of the Toomelah population is aged under twenty years. Although the community has a primary school and a health clinic, Commissioner Moss found the housing to be quite unsatisfactory both in quality and quantity. At the time of Commissioner Moss' visit, the water supply, entirely artesian, was rationed and dispensed twice a day for fifteen minutes at a time; the sewerage system was completely inadequate; the roads were unsealed dirt tracks. Access to and within the settlement was impossible after heavy rain. There was no drainage or street lighting, no regular garbage collection, and no store.

How are human beings expected to live under those conditions? There has been a considerable problem with intergovernmental conflicts. Item 9.9 on page 62 of the Human Rights and Equal Opportunity Commission states:

Inter-governmental conflicts as to policy and funding responsibilities

have been a fundamental and direct cause of these conditions. Moreover, no government authority took responsibility for monitoring the conditions at Toomelah and helping the people to access the required services. The Federal Department of Aboriginal Affairs failed in its obligations in this regard. The Department's view was that services should be supplied by State and local government authorities. Yet the Department did little to bring Toomelah's need for services to the attention of those authorities and did nothing to encourage them to provide those services. When the Department belatedly provided the services itself, they were inadequate and inappropriate. As a consequence of this mismanagement, the Toomelah community has been severely and unjustly denied basic rights and improvement in living conditions.

Unfortunately, the State and local government authority which now has the responsibility for doing this has failed in exactly the same way as the Federal department failed. In relation to housing the report of Mr Justice Einfeld, under item 3.23 on page 17, states:

The Inquiry recommends that the New South Wales Government restore the Homes on Aboriginal Land Program as a matter of urgency. Delay in doing so will understandably reinforce the bitterness and frustrations of the Toomelah community as the existing housing further deteriorates.

Though some housing has been developed, it is inadequate for what is required at Toomelah. Mr Justice Einfeld, at item 4.9 on page 20 of his report, had this to say about the water and sewerage system:

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The New South Wales Public Works Department has designed a sewerage system of modern standards of treatment and reticulation for Toomelah.

It may be that such a system was designed, but if that was the system that was shown on the television program last night, it is grossly inadequate because it is not functioning. There is photographic evidence to support the contention that it is not functioning. Apparently, it is not being kept in an adequate state of repair because the Moree Plains Shire Council has decided that as rates are not being paid in relation to the property it will not maintain the services. With regard to local government, Mr Justice Einfeld, at page 38 of his report, said that he does not agree with the recent Department of Aboriginal Affairs proposal for urban area committees. Reference is made also to the vacuum left by the failure of local government to provide municipal services. He stated:

. . . it does not appear to the Inquiry that, as has occurred elsewhere, constituting individual New South Wales Aboriginal communities, even those as large and isolated as Toomelah, as separate local government authorities with power to accept State and Federal funds and to provide such services themselves is a realistic solution.

He believes that this would be a realistic solution, but it is not being done. On page 25 of the report Mr Justice Einfeld dealt with the problem of roads, and on page 61 he dealt with health problems. Following this report action was taken by the State Government to set up the Toomelah Co-ordinating Council, whose achievements are listed in the minutes of a meeting held in March 1991. Those achievements have also been listed in a statement by the Office of Aboriginal Affairs on page 19 of the Ombudsman's report, and include construction of 16 houses and upgrading of the water and sewerage systems. If

those systems are now upgraded, I must ask: what condition were they in before? Other achievements listed are: construction of a health clinic; medical health services by a doctor, a nurse and an Aboriginal health worker; construction of a multipurpose centre, and construction of an internal road. Does the Government believe that one internal road is sufficient for such a community? Other achievements listed are: construction of the old Bruxner Highway Bridge, sealing of the old Bruxner Highway, establishment of the Euraba store, and the upgrading of a sports centre.

Surely the construction of more than just 16 houses is more important than the sealing of the Bruxner Highway. Those 16 houses were built for a population of 500. What white community of 500 people would live in 16 houses? This list of achievements is not remarkable. In spite of these outstanding problems - and the Government must be aware that 16 houses are not sufficient - the Office of Aboriginal Affairs wound up the Toomelah Co-ordinating Council. That council no longer exists. At about the time that the TCC was wound up, in February 1991, Ms Julie Whitton lodged a complaint on behalf of the Toomelah Aboriginal Land Council and the Toomelah Aboriginal Co-operative. In that complaint - and I quote from the Ombudsman's report - Ms Whitton mentioned housing problems and lack of transport to Boggabilla or any other major towns, as well as problems related to roads.

Ms Whitton complained about the failure of the police department to establish a community consultative committee and to service the Toomelah community, which did not happen, despite ongoing calls for assistance. She complained also about the Moree Plains Shire Council levying rates on Toomelah, but at the same time failing to provide services. The Ombudsman's investigation found that there were continuing problems with housing maintenance and a lack of effort to help people organise simple upkeep and to address wear and tear. The Toomelah Aboriginal Co-operative is responsible for maintenance and repairs, but little has been done to assist the community to manage the mechanics of responsibility; and there is in that community a sense of reliance on the

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Department of Housing. The co-operative also lacks financial skills, and that lack has not been reported to the executive of the Office of Aboriginal Affairs. If that office had played a true co-ordinating role, it could have addressed this problem. The Office of Aboriginal Affairs has no awareness of transport difficulties, and has taken no initiative in helping the community to pursue its options. The records and files of the Office of Aboriginal Affairs do not indicate any assessment of the ability of Toomelah to meet the cost of internal road maintenance. The records show that water and sewerage works have been carried out, but the problem is maintenance of community infrastructure and services.

Maintenance is deplorable. The water tower that was erected there is leaching gallons of water hour by hour and has not assisted the people. It is obvious from the Australian Broadcasting Corporation film footage that the sewerage system is completely inadequate. Also, Toomelah is unable to call on the assistance of police if internal problems arise. An Aboriginal liaison officer was appointed - not to Toomelah but to Boggabilla, which does not have a 24-hour-a-day station and is 18 kilometres distant. There is great confusion about the rights of police to access Aboriginal Land Council land, and no formal agreement exists between the land council or the co-operative and the police. Toomelah has not received annual allocations from the New South Wales Aboriginal Land Council for the past four years. The OAA has failed to recognise that fact or that Toomelah has lost its funding status. That means that Toomelah is now deprived of an annual allocation of \$103,000. Is it likely that the people at Toomelah will be able to pay their rates?

The Office of Aboriginal Affairs had an obligation to assist those at Toomelah in preparing the necessary audit for the previous financial years and to help them work out an approved budget. The purpose of the OAA is to assist communities who lack the ability and education to manage their own affairs in a responsible manner. The office also failed to advise Toomelah that it was eligible for exemption from rate payments, and as a result residents were paying as much as 40 per cent of the value of their properties in rates. The minimum rate of \$165 is payable on properties worth only \$400. Under section 132(1)(b) of the Local Government Act a community advancement society under the Co-operatives Act that has an eligible purpose is exempt from payment of rates. This has been a matter of dispute between the Moree Plains Shire Council and the Toomelah community. This report refers to all kinds of legal advice. Once again the people of Toomelah have been caught in the trap of one set of legal advisers telling them they are entitled to a rates exemption. However, the council did not like that and sought its own legal opinion, which was that the previous opinion was an incorrect interpretation of the Act and that the people of Toomelah are not entitled to an exemption.

In the meantime the community's debt is escalating and people are being charged 19 per cent interest per annum, calculated daily. That should not be permitted in our society; it is ridiculous. This problem must be rectified once and for all. Is that community entitled to a rates exemption, which on legal advice it believes it is entitled to, notwithstanding the statement by the Crown Solicitor that the Aboriginal land council is not benevolent or charitable in a legal sense? Apparently that rates exemption is not available to disadvantaged Aboriginal communities, but it can be given to high-cost retirement villages run by various religious organisations - villages with marinas and waterfront cottages, which can be purchased only by people with high incomes and access to large sums of money. Whatever the rights of this matter, Toomelah's ability to pay was affected by the cessation of funding five years ago. That community faces special problems caused by its isolation, its history and its socioeconomic profile. It must be remembered that 50 per cent of Toomelah's population are dependent, that only 20 of those over 15 years of age are employed, and that the majority of those who are employed earn less than \$9,000 a year.

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**The Hon. Franca Arena:** Well below the poverty line.

**The Hon. ELISABETH KIRKBY:** Yes. It was observed by Commissioner Irene Moss that despite many inquiries, funding arrangements and laws relating to Aborigines, the people of Toomelah still suffer living standards far below those experienced by the vast majority of non-Aboriginal residents of New South Wales - and, for that matter, by the vast majority of Australians. Words, intentions and good will are simply not sufficient. They are not sufficient from this Government; they are not sufficient from the Premier; and they are not sufficient from the New South Wales Office of Aboriginal Affairs. Its officers may have good intentions and the highest integrity, but they are not meeting the needs of the Aboriginal people in that area. I realise that the Premier has a great deal on his plate: he is also the Treasurer. But it is not beyond his powers to set up a ministry for Aboriginal affairs and appoint a separate Minister who could devote all of his time to this blot on our self-respect as a nation. When we dare to criticise the human rights record of any other country - whether it be Cambodia, Indonesia or South Africa - people overseas criticise us and ask, "What do you do as Australians for your Aboriginal community?" [*Time expired.*]

**The Hon. J. P. HANNAFORD** (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [3.12]: When the Government

came to office in 1988 it recognised that a considerable amount had to be done to improve the conditions and welfare services of the Aboriginal community in New South Wales. The motion moved by the Hon. Elisabeth Kirkby refers to the Human Rights and Equal Opportunity Commission report of Mr Justice Einfeld of 1988. It was interesting that on the "7.30 Report" last night Mr Justice Einfeld commented that the facilities at Toomelah have improved generally by a hundred, probably a thousand, per cent since he visited Toomelah in 1987.

**The Hon. Franca Arena:** Are they good enough?

**The Hon. J. P. HANNAFORD:** No, more has to be done. However, I hope Opposition members will acknowledge, as Mr Justice Einfeld stated, that since 1987 - when Labor was in government in this State - conditions at Toomelah have improved a hundred, if not a thousand, per cent. This Government has a firm commitment to the improvement of conditions of people not only at Toomelah but in other parts of New South Wales. Since 1988 the Government has expended more than \$7 million to improve facilities at Toomelah. More than 400 people live there. The Government intends to do more, and more will be done. The Hon. Elisabeth Kirkby has commented as a crossbench member. I wish to comment on a significant and important theme in the comments of the Ombudsman and the honourable member. In view of her previous attitude I do not think she intended to adopt this theme. The Ombudsman's report suggests that the role of the Government through the Office of Aboriginal Affairs should be paternalistic. To the extent that the Ombudsman seems to suggest that, that is rejected by the Government.

**The Hon. Dr Meredith Burgmann:** You are doing nothing at the moment. Read the report!

**The Hon. J. P. HANNAFORD:** The interjection by the Hon. Dr Meredith Burgmann is consistent with what members know about her other comments in this House. It reflects her total ignorance on most issues, particularly this one. If the honourable member wishes to make a comment, she should deal with the facts and compare the amount of money the Government has made available to the Aboriginal

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community of this State since it was elected with what was done by the Labor Government. I do not suggest that more could not be done. Honourable members know that the Government is committed to improving the conditions of Aboriginal communities. I acknowledge that more has to be done, because for decades very little was done in this State. My ministerial relations with the Ombudsman have always been good and I have a high regard for the work that he tries to do, so it is with a heavy heart that I make a point about what was said in the television report last night. I shall go through the sequence of events in relation to the report. Under section 26 of the Ombudsman Act the Ombudsman delivered a report by letter dated 9th November, which was received on 10th November. I draw the attention of the House to that part of the Act which provides that the Ombudsman may require the Minister to respond to a report that the Ombudsman has delivered. The Ombudsman said in his letter, "Pursuant to section 26(5) of the Act I require you to inform me no later than one month of any action taken or proposed in consequence of the enclosed report". Two days later, on 12th November, the Ombudsman wrote again to the Premier stating, "I hereby present a special report to Parliament under section 31 of the Ombudsman Act in relation to the Office of Aboriginal Affairs".

**The Hon. R. S. L. Jones:** The Premier had had it for six weeks.



**The Hon. J. P. HANNAFORD:** No, listen to the dates. On 9th November the report under section 26 of the Ombudsman Act was delivered. The honourable member wishes to interrupt but I have a copy of the letter which he may look at. On 12th November, two days later, the section 31 report was delivered. Under section 31 the Government is required to release the report forthwith. We received the report last Thursday. The Parliament sat yesterday and we delivered the report to Parliament. The television program last night referred to the preparation of the report. It is of concern to me that having delivered the report to the Government on Tuesday, 10th November - a week or more ago - and having said that the Government had a month to respond to the report, the Ombudsman delivered a further report two days later, at which time the television interviews had been cut. If the purpose of delivering a report under section 31 was to enable television interviews to be delivered in relation to this matter, I am concerned as to the way in which the Ombudsman wishes to behave in office. I say no more than that. The Ombudsman has acted within his powers but it is a matter of concern. I come to the issue referred to by the Hon. Elisabeth Kirkby, the position in relation to the exemption of rates and the reason why the Government and the Crown Solicitor have referred to the matter in some detail. The land at Toomelah is leased to the housing co-operative by the Aboriginal land council. When the Aboriginal Land Rights Act was passed, the Government of the day deliberately framed it to ensure that Aborigines would have the right to self-determination and that land would be vested in Aboriginal land councils. The framework of the Act was designed to ensure that as the owners of the land, the councils would be liable for the payment of rates. That part the legislation was expressly adverted to in debate on the proposed Act.

**The Hon. Franca Arena:** What about services?

**The Hon. J. P. HANNAFORD:** That is a problem in relation to Toomelah and that is why honourable members should get the matter into some perspective.

**The Hon. Dr Meredith Burgmann:** It is a problem in relation to Moree and Brewarrina.

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**The Hon. J. P. HANNAFORD:** The honourable member should acknowledge the structure of the Act. The Aboriginal land councils own the land and it was intended that they should be liable for the payment of rates. If the councils use the land in a way which entitles them to claim exemptions under section 131 of the Local Government Act, those exemptions are granted. A large number of exemptions are given to land owned by Aborigines throughout the State. In other cases housing co-operatives, which are established as charities, own the land. As the owners of the land, and being charities, they also fall within the exemption structures of the Local Government Act. This particular land is owned by the Aboriginal land council and is not exempt from rates, because the council is not using the land for an exempt purpose; it has leased the land to the housing co-operative.

**The Hon. Dr Meredith Burgmann:** That is the law as it is now. The Ombudsman has recommended a change.

**The Hon. J. P. HANNAFORD:** No. The Ombudsman has criticised the Office of Aboriginal Affairs for what has occurred in relation to rates. The Office of Aboriginal Affairs is constrained to act within the law as it is today. Whether the law should be changed is another matter.

**The Hon. Dr Meredith Burgmann:** That is not the only criticism of the Office of Aboriginal Affairs.

**The Hon. J. P. HANNAFORD:** It is not the only criticism, and the Government will address all of the criticisms.

**The DEPUTY-PRESIDENT (The Hon. D. J. Gay):** Order! If honourable members want to contribute to the debate they should seek the call. The Minister will be heard in silence.

**The Hon. J. P. HANNAFORD:** The Government accepts that the Ombudsman has made criticisms, and the Government will address those criticisms. In so far as the Ombudsman has criticised the legal operation of these organisations and their powers, the Crown Solicitor has made it clear that that criticism is incorrect. One would have thought that the Ombudsman, having delivered a report to the Government under section 26 of the Act, would have allowed the Government to respond to the report and deal with the issues in it. The Government received the report on 10th November. I noted on television last night that the Ombudsman claimed that the Government had gone into damage control mode. If the Government is concerned about the way the Ombudsman has behaved in relation to the issue of the two reports, it is justified in criticising such behaviour. The report having been delivered on 10th November, the Government had a month within which to deal with it.

**The Hon. R. S. L. Jones:** The Government has had the draft report since 16th September.

**The Hon. J. P. HANNAFORD:** The Hon. R. S. L. Jones continually interjects. If he intends to make a contribution to this debate, I ask him to deal with the legislation and with people's entitlements in accordance with the legal framework as it is, not in accordance with the framework as he would like it to be for the purpose of his contribution. The Government recognises that the Ombudsman has criticised the Office of Aboriginal Affairs, and those criticisms will be addressed. However, honourable members should realise that the Government disagrees with a large number of matters in

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the report. The Government will deal with those matters in its response to the Ombudsman. Honourable members must realise also that the Government has to work within the legal framework. Toomelah Local Aboriginal Land Council has its own problems within the framework of the Aboriginal Land Rights Act and is operating under its own constraints. It has problems in relation to the tenants of the housing co-operative not paying rent. That non-payment of rent adds to the indebtedness of the co-operative. The land council is liable to pay rates and has not been doing so. The framework of the State land council allows it to pay the rates or pick up the indebtedness, but it has not been doing so, because of disputes with the Toomelah Local Aboriginal Land Council in relation to the accounts and financial responsibilities of the council.

I return to the point I made earlier: should the Government allow self-determination for Aboriginal communities or should it, through the Office of Aboriginal Affairs, be a paternalistic body which smacks of everything that various parliamentary committees and everyone else criticised the Government about back in the days of Aboriginal welfare? The Government is not prepared to be paternalistic. It is prepared to work with the communities to try to help them achieve self-determination within the legal framework. The Office of Aboriginal Affairs has been criticised by the Ombudsman for not being able to overcome some of the deficit problems. To the extent to which the Government is able to prevail upon those in the co-operatives and the

Aboriginal land councils to exercise the powers and duties they have, it is fair to say that the Office of Aboriginal Affairs has done that. Representatives of the Office of Aboriginal Affairs have met with those organisations almost on a monthly basis. An investigator has even been appointed. He went to Toomelah to try to clarify the powers and duties of the organisation. To some extent, the organisations are now exercising those powers and duties.

The report has an underlying theme which suggests that the Government should have stepped in and taken control of the affairs of this land council and of the organisation. To the extent to which that is suggested, it is not accepted by the Government. The report concluded that the Government failed to co-ordinate Commonwealth and State organisations to address things such as the maintenance of water and sewerage systems. The Government sought to pursue that co-ordination and will respond to the Ombudsman in greater detail. I do not have sufficient time in this debate to do so. The Government rejects the suggestion that that has not occurred. That is not to say that the area does not have problems in relation to water and sewerage. The Government acknowledges that it has.

**The Hon. Franca Arena:** Serious problems.

**The Hon. J. P. HANNAFORD:** Serious problems, but the question is whether or not a number of these issues need to be addressed in conjunction with the owners and lessees of the land, recognising that the Aboriginal communities want to maintain their independence. The underlying suggestion in the comments that have been made is that the Government should have done some of those things. Anyone who has dealt with the Aboriginal communities would know that interference in the administration of their lands would not have been tolerated. Therefore, there needs to be a significant movement forward. Comments have been made about the impact of the water and sewerage systems on the health of the community in that area, yet on the information that is available, there has been one case of hepatitis A during the past several years, and that occurred this year. The Government has significantly increased the number of staff and the level of financial allocations to that particular area. A health clinic has been constructed; the water and sewerage systems have been upgraded; medical health services have been

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provided by a doctor, a nurse, and an Aboriginal health worker; a multipurpose centre has been constructed; and 16 houses have been built there during the past four years. The Hon. Elisabeth Kirkby referred to the photographs of four homes at Toomelah, which were depicted on television. I acknowledge that they were photographs of those four homes, but our information would indicate that - the television media is wont to show this - they are amongst those homes in the worst condition at Toomelah. However, we did not see any photographs of those facilities which have brought about an improvement in conditions for the people in that area.

The community development employment project has been established; employment, training and enterprise initiatives have been taken; out of the 24 staff appointed, 10 have been Aborigines. In fact, during the past four years of the Government's administration there has been significant commitment to improve conditions there, and that has resulted in a significant step forward. It is interesting that the Ombudsman should have made the comment that he found the conduct of the Office of Aboriginal Affairs, in failing to keep itself informed of the relationship between the Police Service and Toomelah Local Aboriginal Land Council, and Aboriginal land councils in general, to be unreasonable. There has been significant improvement in communication between the police and Aboriginal services. During the past four years

34 Aboriginal community liaison officers have been employed, four Aboriginal regional co-ordinators, and an Aboriginal training officer at the Goulburn Police Academy.

**The Hon. Elisabeth Kirkby:** That is not going to help the people at Toomelah.

**The Hon. J. P. HANNAFORD:** No, but the honourable member should read the report, which refers to those activities in general. That is what I am referring to. The honourable member might wish to raise certain aspects of this matter, but I am dealing with the report as it is framed. It is clear that, had the Government been given the opportunity provided for within the time frame outlined in the section 26 report, the Government would have been able to provide to the Ombudsman comments in response to the issues raised in the report. That response will be forthcoming. In summary, the Government acknowledges that the Ombudsman has brought down a report which is critical of the Office of Aboriginal Affairs. The Government will respond to that report, as it is required to do under the terms of the legislation. The Government is committed to improving welfare services provided to the Aboriginal community of New South Wales. To the extent that improvements need to be made in relation to the operation of the Office of Aboriginal Affairs, they will occur, and they will occur in the context of the report and the Government's response to it, which is the proper and appropriate approach that the Government should take in respect of this matter.

**The Hon. Dr MEREDITH BURGMANN [3.35]:** I have been familiar with the problems of Toomelah Aboriginal community for more than 20 years. I have been hearing from Miss Julie Whitton, who has been a great struggler for her community, about the problems of that small town for the past 20 years. When Marcus Einfeld visited Toomelah in 1987 and cried I believed that things would change. However, I revisited Toomelah a month ago and I have to report that a lot of what the Attorney General and Minister for Industrial Relations has been saying is simply not true. Things have gone terribly wrong in Toomelah Aboriginal community. Sewage is still leaking. When I was at Toomelah the clean water system was not working; Julie Whitton had nowhere to live. The housing shortage is still critical in Toomelah. However, I want to put the problems of Toomelah in context. Yes, money has been spent in Toomelah; yes, things have improved slightly. The real problem has been the lack of co-ordination, and a total misunderstanding of what the needs of the people are. The places to which I want to draw attention are places which have not had the focus of attention that Toomelah has had because of Marcus Einfeld's emotional outburst.

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I would ask honourable members opposite if they believe that the Government has spent sufficient money on Aboriginal communities in rural New South Wales, to visit Mehi Crescent in Moree - which I also visited recently and which is a national disgrace. It is infinitely worse than it was when I visited it 10 years ago. Cardboard and corrugated iron shacks are now being built on the river there because no housing is available. There is now a shanty town in Moree, which is the sort of thing that one sees in the slums of Asia. The Aboriginal person who was showing me around Mehi Crescent said, "This is the worst road you will ever have seen in your life", and when I got there I believed him: it was the worst road I have ever seen in my life. However, Mehi Crescent does not stand alone. Honourable members opposite should visit Dodge city in Brewarrina, which is infinitely worse than it was 15 or 20 years ago when I first saw it; or go to the mallee in Wilcannia. Those are places which we, as a civilised community, simply should not allow to exist in New South Wales. Much of what the Ombudsman says in his report is to that effect: places such as those should not exist.

The situation at Toomelah has been improved but there is still a long way to go. There are many problems associated with the way in which the assistance to Toomelah is being administered. In fact, the Ombudsman's report is a total indictment of the New South Wales Government's actions in respect of Toomelah. The Office of Aboriginal Affairs gets a real swishing in the Ombudsman's report. The real problem with the Office of Aboriginal Affairs is that it was not set up to administer and co-ordinate Aboriginal affairs in New South Wales; it was set up so that there was no way the Government would get any blame for anything that went wrong. It has been set up so that no one can point the finger and say, "This should be done and it has not been done". The Government pretends to believe in mainstreaming. It believes that health problems affecting Aborigines should be referred to the Minister for Health and that housing problems affecting Aborigines should be referred to the Minister for Housing.

**The Hon. D. F. Moppett:** In all those areas there are special programs for Aboriginal people.

**The Hon. Dr MEREDITH BURGMANN:** This practice followed by the Government ensures that no one ever gets the blame for the disgraceful conditions of these communities. Conditions at Mehi Crescent can be remedied only by a central organising body spending money on the settlement and co-ordinating all those arms of government that could make it more livable.

**The Hon. Patricia Forsythe:** Spending money would have the effect of bureaucrats sitting at their desks shuffling paper.

**The Hon. Dr MEREDITH BURGMANN:** At present nothing is happening. As can be seen from this report, the Office of Aboriginal Affairs is doing nothing. The policy of mainstreaming works only if certain pre-conditions have been met. When we in the women's movement oppose mainstreaming we say, "Yes, mainstreaming is fine so long as these pre-conditions are met" and one of those pre-conditions must be total equality. When the Aboriginal infant mortality rate, the heart attack rate of 45-year-old Aboriginal males and when Aboriginal housing needs and educational levels are the same as those of white Australians, then mainstreaming is a suitable policy, but until then it is a clever way of avoiding responsibility for doing something about the conditions in which Aboriginal communities live - conditions that none of us would tolerate. In detail, the original complaint related to the failure of government authorities to respond to requests for assistance and to act in response to the basic needs of the Toomelah community. These included housing maintenance problems, lack of transport, the poor condition of

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the community's roads, failure by police to establish a community committee and to respond to calls for assistance, rate charges on land council land by Moree Plains Shire Council and the lack of services provided. It is ironic that a piece of land worth \$400 attracts a minimum rate of \$165, yet the owners of the land get no services at all from Moree Plains Shire Council.

**The Hon. D. F. Moppett:** That would apply to many people, whether they are Aborigines or not.

**The Hon. Dr MEREDITH BURGMANN:** But they get services. The people I am talking about pay huge charges but receive no services from Moree Plains Shire Council.

**The Hon. D. F. Moppett:** All your comparisons are based on metropolitan

suburban Moree. You have no understanding of what these people want and the circumstances in which they live.

**The Hon. Dr MEREDITH BURGMANN:** It is silly to suggest that this Aboriginal community wants to pay charges for council services that it does not receive. The original complaint also related to the failure of the Office of Aboriginal Affairs to respond to these grievances. The investigation into the conduct of the Office of Aboriginal Affairs began after the head of that office refused to examine the alleged problems. The Ombudsman's report found that the failure of the Office of Aboriginal Affairs to properly monitor the Aboriginal Land Rights Act and report to the Premier was "unreasonable". The conduct of the Office of Aboriginal Affairs was unreasonable in failing to address housing maintenance, which was discussed at four or five Toomelah co-ordinating committee meetings. The sole self-help project was abandoned because of the poor condition of the community's roads, which made travel to TAFE colleges too difficult. The Office of Aboriginal Affairs failed to alleviate a lack of financial and technical skills needed to maintain the 44 houses, or to explore sources of funding to finance housing maintenance.

The Office of Aboriginal Affairs also failed to address the condition of the internal roads access. Maintenance on internal roads had been limited to "a crew of women who collect stones from the roadway". The office failed to realise that Toomelah had not submitted its audited account to the New South Wales Aboriginal Land Council in 1986 and as a result had not received annual allocations of \$103,000 since that time. The Ombudsman also found that despite being aware of problems with water systems and sewage pollution since 22nd September, 1989 - this information was supplied by the Toomelah co-ordinating committee - and despite outbreaks of hepatitis and gastroenteritis, which affected 85 per cent of the local population, the Office of Aboriginal Affairs had failed to secure an agreement for the maintenance of these systems as recently as September 1992. It failed to comprehend that as a community advancement society under the Co-operation Act Toomelah co-operative was entitled to exemption under section 132(1)(d) of the Local Government Act from local government land rates totalling \$24,600, and it delayed redressing that neglect. This resulted in householders being required to pay annual rates which were 41 per cent of the value of their property - the percentage arrived at when one uses the minimum rate of \$165 over an average value of property of \$400.

The Office of Aboriginal Affairs failed, since December 1989, to take steps to facilitate community policing at Toomelah, despite the commissioner's instruction 120.05, which contains a draft agreement between local police and Aboriginal communities, and

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the office had abrogated responsibility for this issue to the Moree Plains Shire Council. Other Aboriginal communities in New South Wales have signed this agreement and community policing has been operating satisfactorily. This has not occurred at Toomelah, not because of a lack of money but because of a total lack of co-ordination and care. Despite these problems the Office of Aboriginal Affairs wound up the Toomelah co-ordinating committee in March 1991, saying that it had achieved the Government's priorities. One must question what the Government's priorities are. The Ombudsman recommended, and I support these recommendations, that the Aboriginal Land Rights Act be amended to clarify the granting of rate exemptions under section 132(1)(d) of the Local Government Act. This would mean that land councils' land used for charitable housing purposes would be exempt from local government rates, as are other bodies that provide housing on a charitable basis, such as churches, the Department of Community Services, Returned Services League clubs, and retirement villages. In

fact, for the past 20 years South Sydney council has exempted the Redfern Housing Co-operative from rates and charges. These exemptions will not apply to land used for commercial purposes, nor will land councils be exempt from payment for services provided by local government.

The second recommendation of the Ombudsman was that the Department of Local Government issue a memorandum to local government authorities to remind them to exempt charitable Aboriginal organisations from rates. Honourable members would be aware from the history of Toomelah that many of its problems occurred because none of the appropriate government authorities thought to tell the Toomelah community of those matters that would benefit it. The third recommendation was that a summit of the Office of Aboriginal Affairs and land councils be held to discuss rating proposals. Obviously the rating proposals apply more broadly than merely to the community of Toomelah. Another recommendation was that the Office of Aboriginal Affairs identify those communities deprived of basic government services and give priority to those communities where the health of the people is at risk. Certainly the places that I visited recently were health hazards. The fifth recommendation was that the Office of Aboriginal Affairs review relations between Aboriginal land councils and police regarding access to land council land to establish a workable relationship.

Finally, I shall respond to the Premier's statement in another place. The answer the Premier gave yesterday was a manifestation of the Government's wrong priorities and inability to deal with the issues confronting him. He used an advice which showed that there were problems involved in granting to Aboriginal land councils exemptions from rates in an effort to justify a lack of action to remedy that situation. He said that it is not legal to do it this way and he used that as a justification to say that it shall ever more be this way. In fact, he used the unsupportable to justify the indefensible. The Premier failed to understand that the Crown Solicitor was not asked to find on the Ombudsman's recommendations but on whether the Ombudsman had found correctly on the current liability of Aboriginal land councils to pay local government rates. The Premier was right when he said that the Crown Solicitor had found that local Aboriginal land councils were not charitable organisations in the legal sense and that there was no question of the Toomelah Aboriginal Land Council being a public benevolent institution or a public charity. In fact, that was the Ombudsman's point. He made his recommendation on the basis that this situation was unreasonable and should be changed. The Ombudsman, unlike the Premier, could see no justification for preventing Aboriginal land councils that act charitably being prohibited from exemption from rates as are other organisations behaving in the same way. The Ombudsman simply recommended that the problem observed by the Crown Solicitor be addressed. Who better to address it than the Government? By contrast, the Premier seems to believe that the problem justifies his refusal to act. He seems to believe that the past failure of the Office of Aboriginal Affairs to address the problem is a sign of good government. [*Time expired.*]

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**The Hon. J. M. SAMIOS** [3.50]: This motion relates to three reports - two reports from the Ombudsman dated 9th November and 12th November and the Human Rights and Equal Opportunity Commission report of Mr Justice Einfeld dated June 1988 - dealing with the Toomelah Aboriginal community. As honourable members should know, Toomelah is an Aboriginal settlement of 184.9 hectares, situated on the McIntyre River near the Queensland-New South Wales border, approximately 130 kilometres from the large town of Moree and 18 kilometres from the small town of Boggabilla. It was originally an Aboriginal reserve dating back to the mid-1930s. In 1975 the land was transferred to the New South Wales Aboriginal Lands Trust pursuant to the 1973

amendment of the Aborigines Act 1969. Under the trust the land was managed by Toomelah Aboriginal Co-operatives Limited. In 1984 its title was transferred to the Boggabilla-Toomelah Local Aboriginal Land Council, referred to as the Toomelah Aboriginal Land Council, established under the Aboriginal Land Rights Act 1983. The co-operative holds a 99-year lease over the whole area. In the 1986 census there were 377 people living there, comprising 172 males and 205 females. In the population over 15 years the census indicated only 20 persons were employed - 12 males and 8 females; seven of those in the work force received an annual income under \$9,000, nine received between \$9,000 and \$15,000 and four received between \$15,000 and \$22,000. The site has been developed with 44 houses and community buildings, including a school.

Prior to March 1988, administration of Aboriginal affairs was conducted by the New South Wales Ministry of Aboriginal Affairs, established in 1982 but abolished in April 1988 and replaced with the Office of Aboriginal Affairs as part of the Premier's Department. In June 1988 the Hon. Justice Marcus Einfeld presented a Human Rights and Equal Opportunity Commission report on the inquiry into the social and material needs of the residents of New South Wales and Queensland border towns of Goondiwindi, Boggabilla and Toomelah, conducted pursuant to section 11(1)(f) and (k) of the Human Rights and Equal Opportunity Commission Act 1986 and section 21(a) of the Racial Discrimination Act 1975. The inquiry found that the Toomelah community endured appalling living conditions which amounted to a denial of the most basic rights taken for granted by other groups in Australia and by other Australian communities of a similar size. That is the situation we inherited when we came to office in 1988. We inherited that disgraceful situation which members of the Opposition pompously relate to the House. The Greiner Government's discussion paper entitled "New Directions in Aboriginal Affairs, September 1988" and the green paper of 1989 spelt out the need for a central co-ordinating agency in Aboriginal affairs. The Hon. Elisabeth Kirkby and the Hon. Dr Meredith Burgmann both talked about the need for a central co-ordinating agency. The reality is that the Greiner Government's discussion paper spelt out the need for a central co-ordinating agency in Aboriginal affairs and identified clearly the failings of the former Ministry of Aboriginal Affairs.

**The Hon. Delcia Kite:** And has done nothing about it.

**The Hon. J. M. SAMIOS:** In answer to the Hon. Delcia Kite, the Greiner Government proposed a commission backed by legislation to co-ordinate Aboriginal affairs policies and programs in New South Wales. This proposal was rejected by the Aboriginal people, as was a modified proposal also based on legislative changes recommended by Mr Charles Perkins. The report makes reference to a need for further research into the Aboriginal communities. I remind honourable members that the tripartite infrastructure program, jointly administered by the Office of Aboriginal Affairs, the New South Wales Aboriginal Land Council and the Aboriginal and Torres Strait Islander Commission, is based on the findings of various research and is now in its third  
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year. When completed in 1995 some \$45 million of taxpayers' funds will have been spent on improving the housing and infrastructure needs of 45 Aboriginal communities in New South Wales. It is a sad reflection that as we approach the year 2000, having completed 200 years of white settlement in this country, the tragedy of the Aboriginal people is still with us. Such tragedy is with us despite the fact that since 1983 some \$235 million has been provided to Aboriginal land councils of New South Wales from, for example, the 7.5 per cent land tax subsidy. Of course, other sources of funding have come from the Federal Government and other areas. We still have this disgraceful state of affairs with respect to the plight of the Aboriginal people.



However, since the report of the Hon. Justice Marcus Einfeld, substantial improvements have been made in the conditions of the community at Toomelah, largely as a result of that review and also because of the readiness of the Government to do its utmost to assist the community. Not enough credit has been given to the role the Government has played in relation to that. We inherited that situation from the Labor Party in 1988. There has been much negative commentary about government initiatives in this area, but I refer honourable members to the comments made by the Hon. Justice Marcus Einfeld on the "7.30 Report" last night. He said, "The facilities have improved generally 100 per cent, probably 1,000 per cent". The reality is that the Government is endeavouring to rectify mistakes in the dialogue of government and the Aboriginal communities extending over 200 years. The Ombudsman in his report has been most concerned with the exemption from local government rates, pursuant to section 132(1)(d) of the Local Government Act, of the land vested in Toomelah Aboriginal Land Council.

The Crown Solicitor's office, on the material contained in the draft report, concluded that it was unable to find any basis in law for suggesting that the land vested in the Toomelah Aboriginal Land Council is not rateable. He found that local Aboriginal Land Councils in law - we are all guided and operate under the law in a democracy - are not public benevolent institutions or public charities. Furthermore, the Ombudsman's report made no mention of some of the difficulties involved because of the economic situation in relation to the payment of rents and rates. Ms Millie Ingram, the Assistant Director of Community Relations and Special Projects, who attended the Estimates Committee recently and who is an Aborigine of distinction, in her report in January and February 1992 detailed her attempts to get the Toomelah and Boggabilla communities to come to grips with their many problems. As I indicated, Ms Ingram is one of 10 members of the Office of Aboriginal Affairs with Aboriginal background; 10 of the 24 officers of that department are of Aboriginal descent.

**The PRESIDENT:** Order! Pursuant to sessional orders, business is interrupted for the taking of questions.

#### QUESTIONS WITHOUT NOTICE

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#### IMPLEMENTATION OF RECOMMENDATIONS OF THE ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY

**The Hon. M. R. EGAN:** My question without notice is directed to the Leader of the Government in this House, representing the Premier. Is the Minister aware that the former royal commissioner on the Royal Commission into Aboriginal Deaths in Custody, Mr Justice Wootten, has described the New South Wales Government's response to the commission's recommendations as lip service? Why has the number of Aborigines in custody in New South Wales almost doubled? Does the Government accept the commission's recommendation that imprisonment be used as a last resort? What other steps is the Government taking to implement the commission's recommendations?

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**The Hon. J. P. HANNAFORD:** I too read the comments allegedly made by Royal Commissioner Wootten as reported in the *Sydney Morning Herald*. In fact, I subsequently received from Mr Wootten an unsolicited letter which was critical of the reported comments because, he claimed, they had not been reported in the full context of what he had to say. He made it quite clear to me that he was not critical of individuals or

of the Government but that he was commenting generally on the issues that arose out of the royal commission's report. Of the 339 recommendations made by the commissioner the Government has given clear support to 309 of them. I am able to indicate to the House that 169 of those recommendations have already been implemented by the Government. If my recollection is correct, of all of the governments in the country, New South Wales has led the way in pursuing reforms in this respect. Though there is room to criticise people within the community and governments within Australia about issues identified in the royal commission report, it would be fair to say - and Mr Wootten in his letter implied this - that the Government has taken significant steps forward in dealing with these issues. The honourable member suggested in his question that the Aboriginal population in prisons has almost doubled. I indicate to the honourable member that that is in fact not so. In reality the proportion changed very little between 1987 and 1991. In 1987 the proportion of Aboriginals in the prison community was 8.1 per cent. In 1991 it was 9.3 per cent.

**The Hon. M. R. Egan:** Has the total number of prisoners increased?

**The Hon. J. P. HANNAFORD:** The total number of prisoners has in fact increased, but the total number of people in prison has also increased.

**The Hon. M. R. Egan:** So in absolute terms what is the increase?

**The Hon. J. P. HANNAFORD:** The honourable member has asked me for the absolute numbers. I shall try to get those for him. It is important to note whether there has been any change in the proportion of the Aboriginal community within the prison system. As I have said, the numbers have increased from 8.1 per cent to only 9.3 per cent. An issue that was adverted to in commentaries following the reported comments of Mr Wootten was the number of people in prison as a result of breaches of the Summary Offences Act. I made the effort to ascertain the position on that matter as well. I indicate to the House that there is no evidence for the proposition that the reintroduction of the Summary Offences Act has resulted in an increase in the number of Aborigines imprisoned. I have been informed by the New South Wales Bureau of Crime Statistics and Research that an evaluation published in 1989 found that in the first six months of the operation of the Act, using a sample of 556 offenders for offensive behaviour, only four of the 556 received a custodial sentence, but it was not possible to identify whether they were Aboriginal offenders.

**The Hon. Ann Symonds:** No one should receive a custodial sentence under the Summary Offences Act

**The Hon. J. P. HANNAFORD:** That is another issue I am addressing.

**The Hon. Ann Symonds:** The Minister is ruining my submission.

**The Hon. J. P. HANNAFORD:** I always read the honourable member's submissions. On some occasions I do not agree with her views, and I welcome her responses when I write back to her saying that I do not agree, but at least I do her the courtesy of reading them. The important point I want to make is that there was informed  
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commentary in the media that a large number of Aborigines were in prison because of breaches of the Summary Offences Act. I have little doubt that that relates to a perception that many street offences, drunkenness and the like, are provided for in the Summary Offences Act and a belief that many Aborigines are in prison because they have breached the provisions of the Summary Offences Act. Based on that survey, only four of

the 556 surveyed were imprisoned. That addresses the three points raised in the question asked by the honourable member.

#### **PARDON OF Mr RENDELL**

**The Hon. J. H. JOBLING:** My question without notice is directed to the Attorney General and Minister for Industrial Relations. Is the Attorney General aware that Mr Douglas Harry Rendell was granted a pardon by the Governor following an inquiry into his conviction? Does the Government intend to provide assistance to Mr Rendell? Further, will the Attorney General table the report of the inquiry into Mr Rendell's condition?

**The Hon. J. P. HANNAFORD:** I thank the honourable member for his question because I know that members have raised this matter as a result of representations they have received from people in the Hunter Valley. I take the opportunity to inform the House of the decision by the Government to make an ex-gratia payment to Mr Rendell subsequent to his receiving a pardon against his conviction for the murder of his de facto wife. On 14th March Mr Rendell was sentenced to life imprisonment. His appeal was dismissed and material was subsequently placed before Mr Justice Hunt of the Supreme Court which, it was suggested, gave rise to a doubt as to Mr Rendell's guilt. On 14th December 1987, His Honour directed that an inquiry pursuant to section 475 of the Crimes Act be conducted, and Mr Riedel, a magistrate, conducted the inquiry. Mr Justice Hunt presented his report of the inquiry, and that of Mr Riedel, to His Excellency the Governor. Mr Justice Hunt reported that he was satisfied that Mr Rendell's conviction was unsafe and unsatisfactory and recommended that Mr Rendell be granted a pardon. His Excellency the Governor, upon the advice of the then Attorney General, granted Mr Rendell an unconditional pardon in respect of that conviction. His Excellency adopted the conclusions of Mr Justice Hunt as to the unsafe and unsatisfactory nature of the conviction and Mr Justice Hunt's view that there was sufficient doubt as to Mr Rendell's guilt to warrant a pardon.

Mr Rendell's solicitors subsequently raised the question of compensation for their client. In view of the grant of a pardon and the comments of Mr Justice Hunt, the Government on the advice of the Solicitor-General has now determined to make a payment to Mr Rendell in the amount of \$100,000 as an ex gratia payment to assist in his rehabilitation back into society. Mr Rendell's solicitors have been advised of this decision. Turning to the second part of the question, I can advise the House that on 26th July, 1989, the then Attorney General tabled the reports in the Legislative Assembly. However, parts of the reports relating to matters then under consideration by the Director of Public Prosecutions were not tabled. The material which was omitted - and I am able to inform the House now about that material - related to the opinion that Sergeant Barry Musgrave may have given false evidence at Mr Rendell's trial. The Director of Public Prosecutions advised that in his opinion there was not sufficient evidence to justify charging Sergeant Musgrave with any criminal offence but the matter should be referred to the Commissioner of Police to determine whether any disciplinary action should be taken against Sergeant Musgrave. The then Minister for Police and Emergency Services advised the then Attorney General that inquiries by the police internal affairs branch had concluded that there was no evidence that would warrant either criminal or departmental

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proceedings against Sergeant Musgrave. The then Commissioner of Police accepted those recommendations. The report, when tabled, had those provisions deleted in order to enable these investigations to be proceeded with.

**The Hon. J. R. Johnson:** How long was he incarcerated?

**The Hon. J. P. HANNAFORD:** About seven years. That investigation was pursued without the reports being made available, for that may have prejudiced the investigation. In view of the determinations of the Director of Public Prosecutions and the Commissioner of Police no action will be taken against Sergeant Musgrave. Tomorrow I will be tabling the full report which will include those portions of the reports that were previously excluded from tabling, that is, pages 17 to 19, the last paragraph of page 20 and the first two paragraphs of page 54 of Mr Riedel's report, and paragraph 4(A) and part of paragraph 11 of Mr Justice Hunt's report. I give that detail to the House so that those members who may have an interest in this matter will be able to examine the report in appropriate detail.

## **MARINE EDUCATION**

**The Hon. R. S. L. JONES:** I direct the following question without notice to the Minister for Education and Youth Affairs and Minister for Employment and Training: is the Minister aware that New South Wales has fallen behind other countries and Australian States with regard to marine education? Is the Minister aware that New South Wales, unlike Queensland, does not have a board developed course in marine studies that can be included in a higher school certificate tertiary entrance rank, or TER? Given the increasing national and international recognition of the importance of the sea, what steps are being taken to introduce a suitable course for senior study that may lead to employment or further study at tertiary level? Will the Minister take up the call of the New South Wales members of the Marine Educators Society of Australia, who teach in her system, to write such a course for implementation?

**The Hon. VIRGINIA CHADWICK:** I thank the honourable member for his question and for the courtesy he afforded me in giving me prior knowledge of his interest in this matter. I do not believe that New South Wales has fallen behind other States in the field of marine studies. For several years a Board of Studies content endorsed course in marine studies has been available for years 11 and 12 students, although it is not a board developed course that the honourable member and his constituents would be seeking. The content endorsed course involves about 60 hours of study and does count towards the higher school certificate but is assessed at school level and is not examined externally. That is a major difference. To suggest that it cannot be or is not capable of forming part of the total higher school certificate is incorrect. The course can lead students to gain credentials for future employment in a number of industries.

Though students who undertake marine studies receive an assessment mark only on their higher school certificate, which is not included in their tertiary entrance rank, this does not preclude students from gaining a TER, which is based on a student's best 10 units of study. As all students are required to present 11 units for the higher school certificate and may study 12 - and indeed I am aware that some study more units - students undertaking marine studies for the higher school certificate therefore could gain a TER without the benefit of marine studies. The content endorsed course has been based on a small number of other approved study courses developed in New South Wales in this area of study. An example of one of these is a course in ocean studies which is being developed at Eden High School. I have had the opportunity of visiting that school

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and speaking to students undertaking that course, which is highly favoured in particular by the Eden fishing industry. By and large, even in these difficult times, students who have completed that course have found related employment where they have sought it. The course is valuable and popular at Eden High School.

Students who successfully complete the course will have work force credentials including cox training, a commercial boat licence, a radio operator's licence as well as credentials in rescue and survival skills. The students, on completion of the course, are directly employable in the hospitality, tourist and fishing industries. In addition, a number of students have successfully combined this vocationally orientated course with physics, chemistry or biology, which gives them a good background in general science concepts and skills before specialisation at tertiary level in marine studies. Though I was not able to obtain specific details in the time available, I believe similar marine studies courses are conducted at some schools, at least on the North Coast of New South Wales. Those courses have been locally developed and are highly credible and popular. The advice I have received from the Board of Studies suggests to me that at the moment in New South Wales 366 students are undertaking marine studies. Given the relatively small candidature and the way in which students are accommodated by the content endorsed course, I think the Board of Studies would need further persuasion about the allocation of resources to the development and wide availability of board approved courses. At this stage the board does not believe that it is justified. However, I know the subject of marine studies is of great interest to the honourable member. I commend his interest, and in essence I agree with it. I would be more than happy to meet the members of the association to which the honourable member refers, if they wish to contact me or visit me and discuss the matter further.

#### **COOMA-MONARO TOURISM FUNDING**

**The Hon. B. H. VAUGHAN:** I direct my question without notice to the Minister for Planning and Minister for Housing, representing the Minister for Tourism. Is it a fact that Government funding to the Cooma-Monaro Shire Council's local tourism plan has been stopped? Is this funding cut a result of the Government's overall reduction in regional tourism funding for 1992-93?

**The Hon. R. J. WEBSTER:** I will seek an answer to the honourable member's question as quickly as I can.

#### **HAWKESBURY-NEPEAN RIVER BLUE-GREEN ALGAL BLOOM**

**The Hon. D. J. GAY:** My question without notice is directed to the Minister for Planning and Minister for Housing in his capacity as Minister responsible for the Water Board. Last summer there were blue-green algal blooms in the Hawkesbury-Nepean river. Will that occur again this year, and what is being done to prevent the blooms or lessen their effect?

*[Interruption]*

**The PRESIDENT:** Order! The Minister will answer the question.

**The Hon. R. J. WEBSTER:** This Government has taken a strong stand on the protection of the Hawkesbury-Nepean river. The Environment Protection Authority is chairing the Hawkesbury Algae Management Committee. We are acutely aware of the impact on the river of different types of land use and expanding development in the river  
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valley and we have taken unprecedented steps to ensure that future development in the valley will be sustainable. Development proposals in the southwest sector of Sydney, for instance, have been slowed to allow for future investigation and planning to ensure protection of the river, and this course of action is now beginning to pay off. The Sydney Water Board has developed a model of the operation of the Hawkesbury-Nepean

river which has the capacity to predict the occurrence of a bloom in the river. This model is still being refined to make it into a powerful tool for decision-making on how the board should operate the 23 sewage treatment plants which are all at tertiary treatment standard, nine weirs and 14 dams it has on the river. But already the model has taught us a great deal about the potential for algal blooms.

Small amounts of algae live in the river all year but reach nuisance bloom levels only if conditions are right. High temperatures, low flow in the river and high nutrient levels in the water are all necessary for a bloom to flourish. Water Board sewage treatment plant effluent contributes to the presence of these nutrients but urban development, agriculture, caravan parks and sewage treatment plants run by other agencies are among the many other contributors to nutrient levels. The board is especially concerned about this problem because the river provides 97 per cent of the water it supplies to its 3.7 million customers every day. So clearly the board has a strong interest in protecting the river. But the board is not the only organisation that has some responsibility for the Hawkesbury-Nepean river. Besides local councils which have no stormwater channels, treatment processes or sewage treatment plants which discharge to the river, some of the other bigger players include the Department of Health, which is responsible for determining whether the river system is suitable for community uses and for issuing public health warnings. Councils are responsible for informing the community about the condition of the river by erecting signs. The Environment Protection Authority and the Department of Water Resources each has a role in regulating the use and management of the river.

Last summer's algal bloom in the river stretched 30 kilometres from Wilberforce to Wisemans Ferry and was naturally of great concern to users and non users of the river alike. This summer the Water Board will be monitoring the water quality of the Hawkesbury-Nepean system on a regular basis - weekly above Windsor, fortnightly below Windsor. Samples taken on 11th November indicated elevated blue-green algae levels at Cattai and Sackville. There has been a gradual increase in the algae population over recent months but it has now reached a level that warrants public notification - a concentration of 15,000 cells per millilitre of water. The Environment Protection Authority has issued a press release informing the public about the status of the river in relation to blue-green algae. I am advised that this algae population is ageing and maturing and is unlikely to develop into a large bloom. The cooler temperatures and wet weather over the past week or so have helped minimise the probability of a large bloom at this time. However, it is anticipated that the algae will rise to the surface during the next week, giving the water a blue-green appearance. At this stage, on the best available evidence, it would be inflammatory and incorrect to call this algae population a bloom. Tests for toxicity have been conducted and the results were negative.

*[Interruption]*

The attitude of the Hon. Franca Arena in sneering at questions being answered in this House is most disconcerting.

**The PRESIDENT:** Order! The Minister is answering the question.

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**The Hon. R. J. WEBSTER:** I should have thought that the Hon. Franca Arena would have been interested in the Hawkesbury-Nepean river. Perhaps she even bathes in it from time to time. Both the EPA and the Water Board are continually conducting tests and the board has increased its monitoring program. The public will be advised of the

results of these tests and the monitoring program as necessary. The Water Board is doing a number of things to lessen the risk of a bloom in the river this year. Extra gauging stations have been installed along the river to assist with the monitoring program. Studies are also being undertaken to establish new methods to detect algal blooms and to discover what causes some algal blooms to become toxic. The Water Board has already done a great deal this year to improve the performance of its sewage treatment plants in terms of reducing the load of nutrients they discharge to the river. The board has achieved a remarkable improvement at its West Camden sewage treatment plant in drastically reducing phosphorus in its effluent from six parts per million to less than 0.1 parts per million. Ammonia in the effluent has also been drastically reduced. The means to achieve the same sort of improvement are being put in place at other plants such as Penrith and West Hornsby.

To attack the problem for the longer term the board and the Environment Protection Authority are undertaking a joint three-year program of work to identify diffuse sources of pollution flowing into the Hawkesbury-Nepean river system. The Water Board is also using its model of the Hawkesbury-Nepean river system to identify the impact of river flow rates on the algal bloom risk. Recently the board released bulk water from Warragamba Dam in order to maintain the required flow over Penrith Weir. But releases of bulk water are not an effective way of managing algal blooms. The board's modelling work has confirmed suspicions that releasing large amounts of water will not cure the algal bloom problem; it merely moves the bloom further downstream. In any case, the release of valuable stored water is costly, and not just in economic terms. Should dry conditions which contribute to the algal problem continue into drought, water restrictions for the whole of the Sydney region may be necessitated. Consumers should remember that even if releases from the dams are found to be worth while in certain circumstances, they are not the same as the real thing: rain, in significant amounts, in the catchment area. In conclusion I say that the work of the Water Board and the EPA on the Nepean deserves the commendation of all honourable members. I am disappointed in the interjecting from honourable members opposite who clearly do not have any concern for one of our most important water systems.

### **FAIRVALE HIGH SCHOOL VIOLENCE**

**Reverend the Hon. F. J. NILE:** I ask the Minister for Education and Youth Affairs and Minister for Employment and Training: is it fact that a 13-year-old boy had his jaw broken by another student at Fairvale High School? Does the Fairvale High School have a high level of student violence, as claimed by some parents? Does the violence among the 1,360 students have a racist basis? If so, what is the Government doing to reduce racial violence in schools?

**The Hon. VIRGINIA CHADWICK:** I have seen reports of the injury to the youth and I have received a preliminary incident report from my department which confirms that such an injury did occur. I am awaiting further details of the circumstances in which the injury occurred. Like the honourable member, I am concerned to understand how a young lad sustained a broken jaw in some disturbance at the school. Given the honourable member's interest in the matter, I shall provide further details to him as they become available to me. However, I am unable to make any comment about whether the incident that resulted in this young lad having a broken jaw had a racist

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element to it. I should like to comment on the final part of the honourable member's question. All honourable members would share my view and the view of the Department of School Education that racism in any of its various manifestations is

absolutely unacceptable within the New South Wales school system. Because of that, the department now has an anti-racism policy which, certainly at the time of its preparation and, to the best of my knowledge, even today, is the first and only system-wide anti-racism policy within the Australian public school sector. That is not to say that other States are not similarly concerned; I am not making any such claim.

I commend the department for its commitment to a cohesive statewide policy and, more importantly, its commitment to a strategy for the implementation of that policy. I am proud of that. Resource materials are now available to teachers right across New South Wales to assist them in this regard. As well, within the schools and the broader community there has been circulated a document that gives teeth and meaning to the policy, the strategy, and explains how difficulties can be handled should they arise. All honourable members hope problems do not arise. But if they do, how does one handle a complaint of harassment with racist overtones, whether it is directed towards a student or, indeed, a teacher? Draft grievance procedures have now been prepared. Anyone within the system who experiences difficulty - a student, teacher or parent - will now have in writing the procedures to be followed. If those procedures are not followed, the document outlines the necessary action to be taken to ensure that that happens. No one within the system will be able to say, "That is not my responsibility", and pass on the problem or ignore it. We have come a long way. I would like to think that we live in a society that is sufficiently civilised not to need such policies, strategies and grievance procedures. However, the sad reality is that we do, and we can only strive, with the co-operation of the next generation, to make such elaborate policies and procedures redundant.

#### **ASSISTANCE FOR INTELLECTUALLY DISABLED SCHOOL-LEAVERS**

**The Hon. R. D. DYER:** I ask the Minister for Education and Youth Affairs and Minister for Employment and Training, representing the Minister for Community Services and Assistant Minister for Health a question without notice. Is the Minister aware that there is increasing community concern about the lack of suitable programs and facilities for people with severe and profound intellectual disabilities after they leave school? Will the Minister raise with her colleague the Minister for Community Services the need to develop programs and facilities to assist these people and to provide relief for their carers?

**The Hon. VIRGINIA CHADWICK:** I thank the Hon. R. D. Dyer for his continuing interest in this important aspect of community service. I note the increasing passion of his commitment to this issue. If one spent some time with the families of disabled people, with the carers and those who work in education, community services or with the disabled people themselves, it would be unusual indeed if one did not feel a strong commitment to this aspect of community service. I commend the Hon. R. D. Dyer for what is clearly developing into a deep concern on his part. It is true that across Australia and, indeed, across the world, the right of people with developmental disabilities to live as normally as possible is being recognised. In years gone by the medical profession held the view, and the community expected, that people with developmental disabilities would be placed in places such as Stockton Hospital, Ryde or Gladesville - virtually out of sight, out of mind. Thankfully, those days are no longer with us. However, that positive development within our community has created another challenge for all governments and societies around the world, which is how to provide more community based alternatives to institutionalisation. That problem was recognised only in New South Wales in fairly recent times.



The first significant report in that regard was published just a few years ago by David Richmond. At that time his recommendations were regarded as controversial and outrageous, and all honourable members would recall the community debate that took place at the time. With modifications to that policy, the previous Government in a preliminary way and the present Government since 1988 have moved to develop those community based services. I would be the first to concede that 200 years of history, attitudes, and culture must be changed. We must meet the huge needs not only of disabled people who have now been placed in the community but also of those who, regrettably, remain in institutions but would have more fulfilling and rich lives if they were placed in the community. The Government has put enormous resources into this area - when I was the Minister for Family and Community Services, when my colleague the Hon. Robert Webster was the Minister, when my colleague the Hon. John Hannaford was the Minister and now under our colleague Jim Longley. The Government is committed to providing these services. One can only hope that the guardians of the Commonwealth disability services legislation, as well as those who harness its resources, will make that legislation a reality. I hope those Commonwealth funds are protected and enhanced by people who share the commitment of the Hon. R. D. Dyer.

### **GIFTED AND TALENTED STUDENTS**

**The Hon. PATRICIA FORSYTHE:** My question without notice is to the Minister for Education and Youth Affairs and Minister for Employment and Training. Will the Minister inform the House about opportunities for gifted and talented students in our primary schools? Are opportunity classes, which have traditionally been available only in schools in Sydney's north and east, to be extended?

**The Hon. VIRGINIA CHADWICK:** The Hon. Patricia Forsythe will be pleased to learn that more than 50 new opportunity classes will be established next year. That clearly represents a major expansion of the opportunity class - or OC - program in New South Wales schools. For far too long gifted and talented children have been the forgotten students in our schools. Fifty-two new opportunity classes will be established, with further expansion proposed for 1994. As most honourable members would know, these classes are aimed at academically gifted children in senior primary schools. They offer bright students a year or two of advanced general education, or the chance to concentrate on a particular strength, such as mathematics or English. Earlier this year I announced my intention to expand the program statewide. At that time I was astonished to discover that this will be the first time in 60 years that the opportunity class program has been expanded statewide.

Since the first class was established in 1932, opportunity classes have been conducted only in the eastern suburbs of Sydney and on the North Shore. The 1993 program will include 12 classes in the metropolitan southwest region - one of Sydney's more socially and economically disadvantaged metropolitan regions; seven in the metropolitan western region; nine in the Riverina; and 10 in the western region. The program will take opportunity classes to some children in very isolated areas in the Western Division. Usually, opportunity classes are established in a single school, with gifted students applying to enrol, often from other schools. The expansion of the program to country areas has meant that the department has been able to examine new ways to conduct opportunity classes, such as single-term enrolments, travelling teachers, and regular or part-time participation. The expansion is part of the Government's gifted and talented students strategy. As with the Government's anti-racism strategy, to which I referred earlier, the gifted and talented students strategy in New South Wales is the first of its kind in Australia. This Government, unlike previous State Governments, has

recognised that academically gifted children live in the western suburbs or in the Western Division just as they live in the eastern suburbs or on the North Shore. Every region now has the capacity to run a variety of programs for gifted or talented students, and the extension of opportunity classes statewide will give a further boost to the chances of bright children in Sydney's west and southwest and in rural New South Wales.

#### **IMPLEMENTATION OF RECOMMENDATIONS OF THE ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY**

**The Hon. ELISABETH KIRKBY:** My question without notice is addressed to the Attorney General and Minister for Industrial Relations, representing the Minister for Justice. Is the Attorney General aware of the research paper prepared by the Australian Institute of Criminology, entitled "Deaths in Custody Australia", referring to Australian deaths in custody in 1990 and 1991? Is the Attorney General further aware that the research paper states:

The extreme over-representation of Aboriginal deaths in custody, in relation to the number of Aboriginal people in the Australian population as a whole, continues.

It also brings to the attention of the reader that, in terms of identifying people who are especially at high risk of death in prison, the 1990 and 1991 data confirm observations that remandees are overrepresented in the prison deaths. Is the Minister aware that during 1990 and 1991 remandees' deaths constituted a similar proportion to all custodial deaths, as they did in the previous 10-year period? In view of the answer which the Attorney General gave a little earlier to the Leader of the Opposition, and in view of this research paper from a most prestigious institute, will the Government complete the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody?

**The Hon. J. P. HANNAFORD:** I shall deal with the last and most important part of the question, that is, whether the Government will complete the implementation of those recommendations. I can give an assurance that the Government is working through those recommendations with a view to their implementation. As indicated in my earlier answer to a question from the Leader of the Opposition, of the 339 recommendations, the Government has given clear and unequivocal support to 309 of them, has given qualified support to 28 of the remaining 30 recommendations, and has already implemented 169 of the recommendations. So, the Government is well on the way to implementing those recommendations. In relation to the preamble to the honourable member's question - that is, whether I am aware of the research paper from the Australian Institute of Criminology, entitled "Deaths in Custody Australia. Australian Deaths in Custody 1990 and 1991" - my attention has been drawn to that report and, from my discussions with him, I know that the Minister for Justice is also aware of it and the issues addressed in it.

The honourable member's comment that there is a considerable overrepresentation of members of the Aboriginal community in New South Wales prisons compared with their proportion of the total Australian population is correct. However, I reiterate that, in terms of the percentage of Aborigines and general population, at about the time of the release of the report there had been a suggestion of a doubling of the percentage of Aborigines in custody in New South Wales. In fact, that was not so. As indicated in my earlier answer, the number of Aborigines in custody increased from 8.1 per cent in 1987 to 9.3 per cent in 1991; but the increase in the actual numbers in prison was attributable to the fact that the total number of people in the prison population

had also increased commensurately. The honourable member's comment about the high risk of death in prison is appropriate. It was highlighted by the incidents of only two weeks ago when a number of people committed suicide in Australian prisons. It is my understanding that the number of Aborigines who are dying in prisons has fallen significantly. I believe that there have been no deaths of Aborigines in prison cells in the past 12 months, indicating a greater consciousness on the part of the Police Service to the problem.

**The Hon. Ann Symonds:** Do you know why Phyllis May died?

**The Hon. J. P. HANNAFORD:** No, I do not.

**The Hon. Ann Symonds:** She was arrested for being in possession of marijuana.

**The Hon. J. P. HANNAFORD:** The point made in the report was that there has been a significant increase in the number of non-Aborigines who are dying in prisons, and that is cause for concern. If there are any other aspects of the honourable member's question which I have not addressed, I will draw them to the attention of the Minister and ask him to provide additional answers.

#### **SCHOOL CANTEEN POLICY**

**The Hon. JAN BURNSWOODS:** My question without notice is directed to the Minister for Education and Youth Affairs. Is the Minister yet in a position to explain why she has held up the revised school canteen policy for a year, against Department of Health advice? Is the delay related to the fact that the Australasian Soft Drink Association's chief executive officer, Mr Tony Gentile, just missed out on election as Liberal Party candidate for the Legislative Council last year and is in the box seat to replace the Hon. Ted Pickering? Did the Hon. Patricia Forsythe also work for the soft drink association for a year? Can the Minister assure the House that there is no conflict of interest in her party supporting the association's opposition to the healthy canteen policy?

**The Hon. VIRGINIA CHADWICK:** The tone of the question and some of its imputations are annoying and offensive and I thought I had adequately answered that question when the honourable member asked it during the estimates committee. At that time I said that a review of the school canteen policy was in place, and that it had been taking place for some time - because, for reasons that are unclear to me, it had excited considerable interest, a number of representations, and interminable rounds of consultations with what I have now discovered is an extraordinarily large canteen committee sitting somewhere in the bowels of the Department of School Education. A number of other issues arose which excited my interest, similar to the way in which the honourable member's soft drink fetish obviously excited her. I fail to understand why, in this day of empowerment of local schools, the development of school councils and the devolution of responsibility, anyone would want this committee in Market Street Sydney to decide what should or should not be on the shelves of school canteens. I have discovered that Orwell reigns supreme in Market Street. The food-thought police are members of this committee. Honourable members can imagine my astonishment when I discovered that the draft was so specific as to describe what type of bread should be used, whether lentils should be used, though I cannot remember whether brown or red lentils were specified. The draft contained a list of foods that were not recommended.

I am sure it would excite the Hon. Franca Arena to know that on the banned list of naughty foods was salami. Give the committee another six months and it will specify the brands of salami that are banned. Imagine my dismay and amazement when I read through the list and found that honey was not recommended. The honourable member has made negative imputations about me and suggested that I may have impure motives and a conflict of interest. I am pleased to inform her that I do have a conflict of interest in the matter of honey, because I happen to be a beekeeper. I would have the greatest difficulty being party to a policy from the food-thought police in my department who want to ban honey, so I do have a personal interest in this matter. Once I got over the shock of learning that honey, salami and various other products were to be banned, I was further dismayed to find that the list included hundreds and thousands. I also have a personal problem with that, as the honourable member knows. It may be unusual, but I have no desire to go down in history as the Minister who banned fairy bread. I refuse to be involved in that. The enormity of whether soft drinks are banned pales to insignificance compared with the difficulties relating to honey, and hundreds and thousands in particular. Since the honourable member excited my interest in this matter - and I can only regret that I have not kept my eye as closely as I should have on these food-thought police who clearly have been beaver away in my department - I have been taking a detailed and personal interest in it. No doubt all will become clear in time as to what will happen with this committee and this proposed policy.

#### **ADMINISTRATIVE ASSISTANCE FOR SMALL SCHOOLS**

**The Hon. D. F. MOPPETT:** I direct a question without notice to the Minister for Education and Youth Affairs and Minister for Employment and Training. I am concerned that it is conceivable that the administrative duties of small schools - of which there are many in New South Wales - may deflect the attention of principals from their education duties. What assistance has been provided to small schools to assist with administration? Will the Minister inform the House of any initiatives in this area?

**The Hon. VIRGINIA CHADWICK:** I am delighted to be able to report that last week I advised 784 small schools in New South Wales that I was in a position to dispense from within our existing budget \$4 million for their local funding. This will provide up to 16 casual release days for each principal. The cost of those additional release days will represent about \$2 million of the \$4 million that I have made available. The honourable member is correct when he says that one of the effects of devolution and empowerment of schools has been the increasing responsibility, and therefore time taken with administrative detail. This additional release time will be valuable to school principals. Principals of schools with 26 to 159 students, including schools for special purposes - schools for children with disabilities, which are of interest to the Hon. R. D. Dyer - will get 16 release days. Principals with enrolments of 25 students or less will receive 10 release days per year. I know that this matter is of particular interest to my colleague the Hon. Robert Webster, whose young daughter Lizzie attends such a school.

**The Hon. R. J. Webster:** Five Mile Tree Primary School.

**The Hon. VIRGINIA CHADWICK:** That is an excellent school with a great curriculum. Such a small school is to be commended for the introduction of French to its curriculum. The other \$2 million is a boost to the operating budgets of schools. A great many small schools will find that the increased funding will add 10 per cent to 15 per cent to their annual operating budgets. This will help them with stores, equipment, computers, text book allowances and curriculum material. Having addressed the

concerns

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of the honourable member and so many of his colleagues in recent times, I would hope that with this injection of funds two things can be achieved: first, assistance for small schools that already perform such a valuable service within the education system; and second - a more intangible benefit - indication of the Government's support for, recognition of and pride in the small schools of New South Wales.

### **WHOOPIING COUGH OUTBREAK**

**The Hon. ELAINE NILE:** I direct my question without notice to the Minister for Education and Youth Affairs and Minister for Employment and Training, representing the Minister for Health. What is the Government doing in regard to the statewide outbreak of the potentially fatal disease whooping cough, involving 120 babies, children and young adults? What is the Department of Health doing to publicise in the media immunisation programs, especially for ethnic groups, in view of the fact that this year the number of cases is three times those during the same period last year, according to the director of epidemiology?

**The Hon. VIRGINIA CHADWICK:** Though I do not have available the details of all of the programs operating within the Department of Health, I am aware of the general level of concern and activity within the department in this regard. I am conscious of that because of the work that has been done, co-operatively and collaboratively, between the Department of Health and the Department of School Education in the area of immunisation. We are anticipating that next year there will be a check at the time of enrolment, which most certainly is not in the form of policing to stop anyone from enrolling but to provide the checking system and, therefore, the mechanism whereby my department and the Department of Health can encourage people to have their children immunised. For people of non-English speaking background it may be their first opportunity to be immunised, if they slipped through the net when they were young. At least the school might be able to assist at the point of entry. I know that the Hon. Elaine Nile was particularly interested in what is being done in respect of babies and infants. I would be happy to ask my colleague the Minister for Health for details of initiatives in that area.

**The Hon. J. P. HANNAFORD:** In view of the time, I suggest that if honourable members have further questions they put them on the Questions and Answers paper.

### **DISABLED CHILDREN'S EDUCATION**

**The Hon. VIRGINIA CHADWICK:** On 13th October the Hon. R. D. Dyer asked a question without notice about disabled children's education. When answering the question, I said that I would provide further detail. That detail is as follows:

The policy of the Department of School Education in relation to the school leaving age for students with an intellectual disability is that a student can remain in a special class in a regular school or in a special school until the end of the year in which the student's eighteenth birthday occurs. This was the policy of the former Labor Government of which the Hon. R. D. Dyer was a member. In special circumstances, there is a provision for short term extensions of this age limit at the discretion of the Assistant Director-General (Region). Such extension is only given if it can be clearly demonstrated that the student is still benefiting from the educational program provided in a way that warrants continuation at a school. Any such extension is reviewed six monthly.

However, I am very aware that there is a need for a co-operative service delivery approach to Transition services for people with disabilities in order to lay a strong foundation for maximising the level of community independence that will be enjoyed by young adults with disabilities when they leave school.

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Accordingly, I have recently established an Inter-Departmental Transition Committee, with representation from a wide range of State and Commonwealth departments. This committee will have the following brief:

to develop an across-department and an across-Government plan, focusing on the needs of young people with disabilities in transition from school to the adult community

to promote the collaborative involvement of the participating agencies in the development and delivery of a co-ordinated and complementary range of service options

to forecast the economic consequences of planning options relevant to agency responsibilities

to develop protocols and guidelines for inter-departmental and inter-governmental co-ordination and co-operation

to monitor adequacy of service provision and program co-ordination

to evaluate the effectiveness of Transition initiatives

I have particularly asked that this Inter-Departmental Committee take up the issue of post-school placements available to students with severe and multiple disabilities.

### **CREDIT CARD CHARGES**

**The Hon. VIRGINIA CHADWICK:** On 15th October Reverend the Hon. F. J. Nile asked a question without notice about credit card charges by New South Wales banks. My colleague the Minister for Consumer Affairs and Assistant Minister for Education has provided the following answer:

The question of up-front charges on credit cards cannot be answered definitively until the Standing Committee of Consumer Affairs Ministers (SCOCAM) meets to consider its position. SCOCAM has been concerned at the high level of credit card rates and the resultant issues of equity and has been investigating means of lowering interest rates.

The suggestion that a \$10 fee would offset a 2 per cent rate reduction is part of a study commissioned by NSW and Victoria into the potential impact of fees on credit card interest rates. That study contained a statement that for the average cardholder to be no worse off, for a \$10 annual fee on cards the interest rate reduction would need to be approximately 2% for cards with interest rate of 17.5% and 2.4% for cards with interest rate of 21%.

No policy position will be adopted by the Minister for Consumer Affairs until the implications of the report by the Prices Surveillance Authority following its inquiry into credit card profitability has been considered by Cabinet and discussions held with other members of SCOCAM. The Minister has called for a special SCOCAM meeting to discuss the recommendations of the report in connection with credit law reform.

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## IRON GATES DEVELOPMENT PTY LIMITED

### Personal Explanation

**The Hon. Jan Burnswoods:** I wish to make a personal explanation. Yesterday the Minister for Planning and Minister for Housing stated in answer to a dorothy dix question that he was disgusted at what he called accusations made by me over the proposed massive development on the North Coast at Evans Head by Iron Gates Development Pty Limited. When the Minister said that I deliberately or negligently got the facts wrong, he was accusing me of lying. Given his offensive comments, I must set the record straight. The Minister stated that the National Parks and Wildlife Service had

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not taken a decision not to prosecute Iron Gates Development for the destruction of an Aboriginal site, but that the service was still considering the case and evidence in order to decide whether to prosecute. I have in my possession a letter from the Minister for the Environment, Mr Chris Hartcher, dated 14th October, 1992, which makes it clear that the National Parks and Wildlife Service has no intention of prosecuting Iron Gates Development. In his personal attack on me the Minister for Planning and Minister for Housing also stated that a retrospective consent was not given to destroy this Aboriginal site. However, I have documentation that Iron Gates Development applied on 9th August last year for consent to destroy the site, although the company was well aware that it had already destroyed it when it sent in a bulldozer on 27th February last year - six months earlier. I also have in my possession copies of internal National Parks and Wildlife Service memos which prove that what I have said is correct in every detail. I also have a copy of the conditional consent of the National Parks and Wildlife Service -

**The PRESIDENT:** Order! There is far too much background conversation. I am having difficulty hearing the honourable member's personal explanation.

**The Hon. Jan Burnswoods:** I also have a copy of the conditional consent of the National Parks and Wildlife Service -

**The Hon. R. J. Webster:** On a point of order. I have listened patiently to what the honourable member has had to say. The honourable member has not substantiated her point of personal explanation. She is merely debating the points that I made in my answer to the House yesterday.

**The Hon. Jan Burnswoods:** On the point of order. I am giving some examples of events that are contrary to those outlined by the Minister yesterday in respect of this department; I then propose to deal with the other department, the Department of Conservation and Land Management, with respect to which he also totally misquoted me. By stating the facts in relation to matters dealt with yesterday by the Minister I am showing that he totally misrepresented me.

**The Hon. R. J. Webster:** Further to the point of order. A personal explanation is not warranted every time an honourable member disagrees with something that another honourable member says in this House. I submit that all the Hon. Jan Burnswoods is doing is debating the points that I made in this House yesterday in response to some totally false accusations she made against me in the House some time ago. I submit that that does not constitute a personal explanation.

**The Hon. Jan Burnswoods:** Further to the point of order. I can only repeat

that the Minister, in stating that I deliberately or negligently got the facts wrong, was accusing me of lying. I have already referred to a number of documents - which I could produce to the Minister, although I am summarising them - which make it very clear that he is quite wrong in saying that I do not have the evidence to back up the statements that I have made.

**The PRESIDENT:** Order! The Hon. Jan Burnswoods, by indulgence of the House, is making a personal explanation pursuant to Standing Order 70, which states:

By the indulgence of the House, a member may explain matters of a personal nature although there is no question before the House; but such matters may not be debated.

I refer the honourable member to the ruling of my predecessor, the Hon. J. R. Johnson, of 27th February, 1986. I concur with that ruling. He stated:

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Though the standing order is quite clear in regard to certain aspects of this procedure, I submit to the House that the following guidelines should apply to the making of a personal explanation. It should allow the member concerned to explain a matter reflecting on the honour, character or integrity of that member, or to explain any matter which reflects upon the member in a personal way. It should not be used to explain matters on behalf of any other person. The matter which is the subject of the personal explanation should not be amplified or debated.

I therefore ask the Hon. Jan Burnswoods to confine herself to her personal explanation within the parameters laid down by my predecessor, with which I concur.

**The Hon. Jan Burnswoods:** I have two more points to make. I was saying that I also have a copy of the conditional consent of the National Parks and Wildlife Service -

**The Hon. R. J. Webster:** On a point of order. The Hon. Jan Burnswoods is clearly flouting your ruling, Mr President. The honourable member has not come to the substance of whatever it is she is trying to put before the House; she is merely debating the points I made in my answer yesterday. I do not consider that to be in accordance with the ruling of the Hon. J. R. Johnson.

**The Hon. Elisabeth Kirkby:** On the point of order. The Hon. Jan Burnswoods believes that she was accused of lying to the House yesterday. The Minister for Planning and Minister for Housing has said that she has misrepresented what she knows and can prove is the truth. Surely, if she is to rid herself of that slur on her integrity, she is entitled to tell the House the facts of the case, if she has documentary proof of them. I do not believe that she is debating the issue; she is merely proving that what she said is correct by giving a documented answer.

**The Hon. J. F. Ryan:** On the point of order. The honourable member has come before the House to defend herself against a charge of having lied to the House - and that is her word. She said the Minister -

*[Interruption]*

**The PRESIDENT:** Order! I want to hear the honourable member.

**The Hon. J. F. Ryan:** She said, "The Minister has said that I have lied", but in



fact she was not able to point to any part of *Hansard* in which the Minister had said so. The Minister had simply debated some of the issues she had raised in the House. I think the strongest word that the Minister used was that she had misled. To some extent, the honourable member does not have a point of integrity to defend or on which to make a personal explanation, but if she did the limit of what she should be able to present to the House is to say that she has not misled the House because she has information to prove otherwise. Any outlining of that information is amplifying the matter, which has been excluded in the ruling that you referred to by the Hon. J. R. Johnson. All she is able to do - I would have thought all she needs to do - in her personal explanation is to say that she has not misled the House. The details are something that she might want to give at another time.

**The Hon. Jan Burnswoods:** On the point of order. I have already said this twice. I said that the Minister said that I deliberately or negligently got the facts wrong and, in saying that, I believe he was accusing me of lying. That is quite different from what the Hon. J. F. Ryan just said. I have said that that is what the Minister said yesterday. I believe it imputes lying to me, and I have therefore sought to get the facts straight and to point to the evidence I have.

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**The Hon. R. J. Webster:** Further to the point of order. The honourable member is somewhat oversensitive. The truth is that we all know that the facts according to one member are not necessarily the facts according to another. The honourable member has sought to debate some matters that I raised in the House yesterday, and I could just as easily suggest that she is misrepresenting what I said. I believe she has already done so in her personal explanation. That is not the point. The point is that she is not adhering to the ruling of your predecessor in relation to the making of a personal explanation. She is purely and simply debating matters which I raised in answer to a question in this House yesterday, and that is not within the ambit of a personal explanation in my view.

**The PRESIDENT:** Order! I restate my support of the ruling of my predecessor, the Hon. J. R. Johnson. I believe that the honourable member is straying from the purpose of a personal explanation and I would ask the honourable member to confine her remarks to, and I quote again that ruling, "matter reflecting on the honour, character or integrity of that member . . . The matter which is the subject of the personal explanation should not be amplified or debated".

**The Hon. Jan Burnswoods:** I have one more point to make. The Minister accused me of attacking the Department of Conservation and Land Management. My only point is that I never mentioned that department.

**The Hon. R. J. Webster:** On a point of order. The honourable member is flouting your ruling and now is debating matters which clearly have nothing whatsoever to do with reflections upon her, let alone suggestions that I accused her of lying.

**The PRESIDENT:** Order! The honourable member, in pursuing this line, in my opinion is clearly out of order and is abusing Standing Order 70. She will desist from that course please. Does the honourable member wish to continue with her personal explanation?

**The Hon. Jan Burnswoods:** Mr President, I bow to your ruling. As I said earlier, I was concerned at what the Minister had said about me yesterday, and I believe

the discussion that has taken place even on the points of order has thrown some light on that.

## **JOINT STANDING COMMITTEE UPON ROAD SAFETY**

### **Report: Livestock Warning Signs**

**The Hon. Beryl Evans**, on behalf of the Chairman, tabled report No. 24 of the Joint Standing Committee upon Road Safety entitled "Livestock Warning Signs: Road Safety Implications of the Draft Rural Lands Protection (Amendment) Bill 1992", dated November 1992, together with submissions received and minutes of evidence taken before the committee.

**Ordered to be printed.**

## **OFFICE OF ABORIGINAL AFFAIRS**

### **Adjournment (S.O. 13)**

**Debate resumed from an earlier hour.**

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**The Hon. J. M. SAMIOS** [5.15]: When speaking to this issue earlier I was making the point that we need to adopt a positive attitude to these matters. Three of the five recommendations that the Ombudsman has made on this issue relate to the rating of Aboriginal land. The Crown Solicitor's opinion has indicated a difficulty with those recommendations. For the information of honourable members the Department of Local Government and Cooperatives has prepared a discussion paper on this subject, and it is understood that a recommendation to distribute the paper will be placed before the Government in due course. The Government of this State is committed to providing social justice for all its people, including the Aboriginal community. It is endeavouring to rectify the anomalies of the past in the most efficacious manner possible. I have indicated that the report of the Hon. Marcus Einfeld, following the review conducted some years ago, is being implemented. Though it is true that the plight of the people of Toomelah and other Aboriginal communities still needs redressing, we must appreciate the considerable positive and progressive initiatives that have occurred since the report of the Human Rights and Equal Opportunity Commission was produced and seek in a positive manner to provide for a better co-ordination of initiatives and a better provision of vital services for these communities. Finally, underpinning all these proposals is the need for a better understanding of the difficulties concerned, be they an understanding by the Government of this State, by the relevant shire council, or by the Ombudsman himself.

**The Hon. ANN SYMONDS** [5.18]: I congratulate the Hon. Elisabeth Kirkby on instigating this debate today and raising this matter in such a manner that the length of the debate is unlimited. The time of individual members to participate in the debate is limited; nevertheless, time for debate is unlimited so far as I am concerned. It provides an opportunity that should be taken by every member of this House to state quite clearly their response to this situation. I am appalled at the way in which members of the Government have approached the situation to date. I suppose my reaction stems from the fact that I have been a member of this House for 10 years. The two Government members who have taken part in the debate so far may not have seen the development in this area of policy that I have seen. In 1980 the relationship between the Government

and the Aboriginal people in this State was put firmly on a priority agenda by the then Premier, Mr Wran, when he established a lower House task force under Maurie Keane to examine and report upon the impact of almost 200 years of white settlement on Aboriginal communities. That report, in giving an historical review of legal, political and administrative policies relating to Aborigines, stated in its opening comments:

The white citizens of this State founded their present affluence on the seizure of land that belonged for 40,000 years to the Aborigines. In less than 200 years whilst waxing fat ourselves, we have reduced our unwilling benefactors to penury.

The Aboriginal citizens of this State mainly exist in conditions of abject poverty. Their housing is substandard and overcrowded. Their health and education, abysmal. Their employment, negligible. Their welfare and culture, ignored or deprecated.

In the wealthiest State of one of the world's most affluent countries, there is no excuse for these deplorable conditions to continue to blight the lives of the descendants of the original Australians.

Fortunately, that substantial report, after extensive community consultation, produced the Aboriginal land rights legislation in 1983. For a time there was enormous hope within the Aboriginal and white communities that justice was truly being pursued on a basis of equity and dignity for Aboriginal people and independent decision-making within their own cultural context. The horror is that on 21st March, 1988, the newly elected Premier, Mr Greiner, announced to the world that he was removing from his department

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all those elements that were not, in his own words, "central to government". He did two things. He moved the women's co-ordination unit out of the Premier's Department and thereby removed it from its position of power and influence with government; and he abolished the Ministry of Aboriginal Affairs. It is all very well for members opposite to claim that the Office of Aboriginal Affairs, which substituted for the Ministry for Aboriginal Affairs, has a responsibility to co-ordinate services and responses to the Aboriginal community. In fact, the mission statement of the Office of Aboriginal Affairs is: to assist and advise the Premier on the efficient, effective and co-ordinated management of Aboriginal policies, legislation, programs and issues; to assist Aboriginal people and communities to achieve self-management and economic independence, and to enhance their image within the general community.

That mission statement does not mention the pursuit of justice for Aborigines or necessary co-ordination between departments. The Hon. Elisabeth Kirkby said earlier that 22 agencies impinge on what happens in the Toomelah community. How on earth can any progress be made? No wonder the report is of such effect. How can any result be achieved without an effective co-ordinating agency in the hands of the Premier? I am sick and tired of the nonsense spoken about the current Premier of this State. What is happening at Toomelah is a prime example of his inability to relate to people who are vulnerable and who need effective advocacy. We are all supposed to be led to believe that the Premier is a good, warm and caring bloke. But how warm and caring is he? Toomelah is his responsibility. If the Premier were effectively warm and caring about the Aboriginal community in this State he would insist on giving true power, true authority and true resources to a ministry within his portfolio which could have a direct role in solving the problems confronting the Toomelah Aboriginal community.

Cliff Foley may not have been accurately reported in the press today as saying there was no need for an Office of Aboriginal Affairs. Perhaps he said there was no need for that office as it currently exists, outside any relationship of power under the

Premier, because it could not perform the co-ordinating function that is so obviously required. Clearly, as Mr Foley is reported to have said, an office that does not have direct access to the person who is really in power in this State - a Premier who refuses to accept responsibility in this matter - may as well not exist. I think what Mr Foley would have said is that a powerful agency acting on behalf of Aborigines is required in a central place in the Premier's Department or in a central part of government. I endorse all the comments by the Hon. Dr Meredith Burgmann about a comparison between women and Aborigines. Mainstreaming can be discussed only after a base of equity has been established; until equity has been achieved, particular advocacy is essential. Obviously there has been an enormous breakdown of the co-ordinating role.

**The Hon. Franca Arena:** The same thing has happened in ethnic affairs.

**The Hon. ANN SYMONDS:** I agree absolutely with the honourable member. The incredible problems at Toomelah, which have been portrayed graphically and pictorially by the Australian Broadcasting Corporation - though I have not seen the program - are also described in the Ombudsman report. In his report the Ombudsman stated to the effect that he had never received such resistance in getting a response from a Premier - this wonderful, warm caring person who is supposed to give new leadership to the present Government. The Premier has certainly failed the Aboriginal community not only in Toomelah but throughout New South Wales. Wal Murray and his associates have difficulty facing reality. Recently I spoke to a person at a child's birthday party who remembered his grandfather - a white man - talking about going out on shooting parties. Those horrible events are within the living memories of white people. How

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much more so are those events and contact with white people within the living memories of Aboriginal people? People like Wal Murray and John Fahey have to come to terms with the fact that Aboriginal people are human beings. No wonder Justice Marcus Einfeld, with his Jewish background, cried when he went out to those areas. He understood the denigration he witnessed of a group of Aboriginal people because he remembers the Jewish people's experience of being castigated and separated as subhumans. For many years the white population of this country treated the Aboriginal people of this country in the same way. We must turn away from that history. We can only begin to rectify those injustices if we begin to recognise the human needs of the Aboriginal community.

The way in which the local shire has dealt with that community is disgraceful. Everyone in this House should take the opportunity today to stand up to say that it is a disgrace, that we will not tolerate it and we call upon the Premier of this State, the person in supreme command, to take forceful and effective action to overturn the situation. Admiration and collection of Aboriginal culture in whatever form it is celebrated are becoming popular. Aboriginal artworks are international collectors' items these days. Aboriginal dance theatre is praised everywhere. Tourism relies heavily - I think it should rely even more heavily - on the central theme of Aboriginal culture. We must unite to protect Aboriginal culture. I feel absolutely justified in saying what I have said, despite interjections from the Government side, because of the shameful way in which the Attorney General spoke, supported by the remarks about recent history and attempts to resolve these matters by the other Government speaker in the debate. If we do not face up to the fact that the people living in that part of the State have Third World conditions -

**The Hon. R. T. M. Bull:** We had 12 years of Labor and nothing was done about it.

**The Hon. ANN SYMONDS:** That is a despicable thing to say. In 1980 the

definitive report was done and arising from it -

**The Hon. Jennifer Gardiner:** You can insult John Fahey but we cannot insult your Government.

**The Hon. ANN SYMONDS:** My Government?

**The Hon. R. T. M. Bull:** You were in power for 12 years.

**The Hon. ANN SYMONDS:** And we used the power over that period to make the greatest reforms for Aboriginal people that have ever taken place in this country. There is no legislation similar to the New South Wales Aboriginal land rights legislation in any other part of the country. Other Aboriginal communities long for the provisions in that legislation which enable Aborigines to deal with their own personal needs.

**The Hon. J. P. Hannaford:** And you would agree that that independence should be sustained?

**The Hon. ANN SYMONDS:** The coalition made many attempts - perhaps mismotivated - to overturn that legislation but after lots of consultation the land rights legislation has been retained. There is now bipartisan agreement on that legislation. We should add to it and build on it. I am simply saying that it does not do the cause any good for John Fahey to deny that there is a problem and that - *[Time expired.]*

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**The Hon. JENNIFER GARDINER** [5.33]: I am pleased to speak in this debate on the report of the New South Wales Ombudsman on the Office of Aboriginal Affairs and the people of Toomelah. In response to the remarks of the Hon. Ann Symonds I say that in all my years of knowing the Deputy Premier, the member for Barwon, Mr Murray, I have never heard him say anything that would suggest that he is unable to comprehend the human dimensions of this issue. As a member of his party I am personally affronted by those types of statements made about him in this place. The Government's commitment to improving the living conditions of the Aboriginal people of this State is well demonstrated by the allocation of funds for Aboriginal housing from 1988-89, when this Government came to power, to 1991-92. The increase has been massive. More than \$46 million has been provided for Aboriginal housing; nearly \$39 million has been spent to provide homes on Aboriginal land; and money has also been spent to provide homes on Aboriginal Land Council land - a total expenditure by this Government for Aboriginal housing of more than \$85 million. People who have visited larger country towns in New South Wales in the past few years will have noted the improvements in the general standard of accommodation for Aborigines. It is not appropriate to make a general smear against the Government on this issue.

Toomelah was the last Aboriginal reserve in New South Wales. After the last mission manager left it was administered by the Aboriginal Lands Trust. That trust was a representative body elected by Aborigines from throughout the region, centred on Moree, and funded by the Department of Aboriginal Affairs. Ownership and management were transferred to the Aboriginal Land Council in 1982. The community of Boggabilla is closely linked to Toomelah, being only about 12 kilometres away. Apart from money spent on infrastructure at Toomelah, concomitant improvements have been made in Boggabilla. The Department of Housing has built additional housing for Aborigines at Boggabilla and acquired additional land for future Aboriginal housing. A community hall has recently been built at Toomelah. It was funded by the Aboriginal

and Torres Strait Islander Commission, ATSIC. Construction in March last year of an access bridge has reduced the isolation of the community.

As has been stated in this debate, last night Mr Justice Einfeld stated that the improvements at Toomelah since he first visited are of the order of many hundreds of per cent. That is due entirely to the expenditure of \$7 million by this Government to improve facilities. Earlier in the debate the Attorney General stated that there is more to be done and more will be done. The Government is committed to improving conditions for Aborigines. So much has to be done to catch up because of previous neglect. The Human Rights and Equal Opportunity Commission report of 1988 essentially was a report on the neglect of the previous Labor Government in ignoring one sad Aboriginal community and the rest of rural New South Wales - areas outside Sydney, Newcastle and Wollongong. The Toomelah community was left even further behind than the rest of rural New South Wales. The land at Toomelah is currently owned by the New South Wales Aboriginal Land Council. There is a policy of self-determination and the Ombudsman's report refers to the rateability of the land. The Attorney General has pointed out the statutory legal position in that regard in response to the Ombudsman's report.

The Government can only prevail upon the relevant Aboriginal organisation to a certain degree. At some point it becomes necessary for them to co-operate in making the best of the relevant laws and regulations. The New South Wales Government has done its best in that regard. The Ombudsman's report criticises the Government for failing to co-ordinate services. There has been a great deal of co-ordination, which has resulted in the expenditure of \$7 million on infrastructure and health services for the

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Toomelah community. Who are the owners and lessees of the land? Consultation needs to be improved. In relation to health targets, the Minister pointed out that only one case of hepatitis A occurred in the past year. A health clinic has been constructed and the water and sewerage systems have undoubtedly been improved. An offer has been made of further training to maintain the sewerage system in the village. Additional housing has been provided, as well as the community development employment project. In the past four years significant steps forward have been taken.

In relation to the important issue of maintaining sewerage and water systems for the village, it appears that the Toomelah Aboriginal Land Council meets rarely, if ever. Funds are available to that council from the New South Wales Aboriginal Land Council but the Toomelah Aboriginal Land Council does not meet. Not unreasonably, the Moree Plains Shire Council will not go into the village and repair the works unless it believes it will be paid for the work undertaken. All but one of the groups involved seem to agree that the Moree Plains Shire Council should go into the Toomelah community. The Toomelah community, ATSIC, and the New South Wales Office of Aboriginal Affairs all agree, but apparently the New South Wales Aboriginal Land Council complains about something called white domination and will not sign an agreement with the council so that work can proceed from time to time. In other words, most of the parties are willing to co-operate, but there seems to be a problem with the New South Wales Aboriginal Land Council. As a result, the Toomelah community suffers.

It is interesting to note that the water and sewerage facilities at Toomelah were upgraded several years ago. On completion of that work, the Public Works Department, which is headed, of course, by the Deputy Premier, offered its services to ATSIC for periodic inspections of the system. That offer was made in September 1990 to ATSIC in an attempt to maintain the water and sewerage facilities. That offer included on-site training at a cost of about \$12,000. A copy of the guidelines for the operation of the treatment ponds was provided to ATSIC, the Aboriginal Land Council and the Toomelah

community. Despite many verbal assurances from ATSIC, the offer of the Public Works Department has never been taken up. In addition, the Public Works Department encouraged ATSIC to send representatives to departmental training courses. In fact ATSIC nominated for one of these courses last year, but apparently no one turned up to take advantage of the offer made by Mr Murray's department.

New South Wales government instrumentalities seem to be showing a great deal of good will in building upon the improvements that have been wrought thus far by the \$7 million expenditure, but that does not seem to be a high priority in some other circles. That means also that the people of the village will suffer. I do not think anyone can doubt the genuineness of the Government in relation to Aboriginal health. That genuineness is best illustrated by the allocation in this year's budget of \$8 million specifically for Aboriginal health. As I have pointed out, that is an increase of 44 per cent on last year's allocation. That increase has been made by the present Treasurer, who is also the Premier. Earlier the Hon. Ann Symonds attempted to castigate the Premier, the man who has increased the budget allocation for Aboriginal health by 44 per cent, as being uncaring. I simply cannot agree that that approach is uncaring. Part of that allocation will be directed to the new concept of primary care posts in isolated Aboriginal communities. Those care posts will be managed by those communities as part of the follow-on from the 1990 Aboriginal health strategy.

**The Hon. J. P. Hannaford:** The last report.

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**The Hon. JENNIFER GARDINER:** Yes, a report of which the former Minister for Health and Community Services is well aware. I do not believe that it is at all helpful to try to make out that this Government, of all governments, is uncaring about this issue or to try to introduce partisanship into the debate.

**The Hon. Ann Symonds:** I am disappointed with Fahey. I share Mr Landa's disappointment.

**The Hon. JENNIFER GARDINER:** Disappointed with Mr Landa, yes. All honourable members agree that there is a long way to go. Perhaps more co-ordination is needed to make sure that progress is achieved. However, I do not believe for one minute that the Government can be regarded in any way as not caring about the situation in the village of Toomelah.

**The Hon. FRANCA ARENA [5.46]:** I also congratulate the Hon. Elisabeth Kirkby for moving this important motion. As the Hon. Ann Symonds said, every member of this House should take the opportunity to speak to this important motion, and it is heartening to see that many will do so. As an Australian of non-English speaking background, I came to this country not knowing a great deal about the history of the Aboriginal people. Only when I arrived here and studied did I realise the immense tragedy that the Aboriginal people have suffered. I am fortunate to have made many women friends in the Aboriginal community. I refer particularly to Joyce Clague, Pat O'Shane, Faith Bandler - who, even though she was not an Aborigine but a Torres Strait Islander, has fought for Aboriginal rights - and Lois O'Donohue, who served on the National Population Council. They are all splendid women who helped me to understand the immense tragedy of the Aboriginal people and the suffering they have undergone in this country in the past 200 years.

The Minister spoke of the many initiatives of the Government. I do not claim

that the Government has not taken any initiatives. I understand the good intentions of the Government, but, as the Minister admitted, a great deal more needs to be done. It is a terrible tragedy that no matter how much is done for the Aboriginal community, much more will need to be done. I thought there was danger implicit in the Minister's words when he attempted to blame the victims. Often there is a danger of people saying, "Perhaps the Aborigines themselves should do more; it is their fault; they have not done this and they have not done that". We must be careful to avoid that. A defensive approach must not be taken when criticism is made. I am the first to admit that for many years under Liberal and Labor governments, there was enormous neglect of the Aboriginal community. A bipartisan approach was tried, which was similar to the bipartisan approach to ethnic affairs. The Minister spoke about the \$7 million which was spent in Toomelah, but during the estimates committee hearing it was revealed that last year \$1.5 million of the funds allocated for Aboriginal health in New South Wales was not spent.

It is an enormous amount of money, and God only knows what could be done for Aboriginal health with that money. The Minister spoke about the 16 houses that have been built. How many more are required to be built? As I did not attend the estimates committee on the housing portfolio I cannot say if money was not allocated for and spent on Aboriginal housing, but 16 houses are not enough. My friend and colleague the Hon. Ann Symonds has reminded me of an article that appeared in yesterday's edition of the *Sydney Morning Herald*. Mrs Whitton, the Secretary-Treasurer of the Toomelah Aboriginal Land Council, said that the biggest problem in Toomelah is housing; she has no house of her own and sleeps wherever night falls. She said she knows of 30 other

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families who do the same. She said that what the community wanted most was a church and that it was extremely important for the community to come together. The Government should heed those words and remember that there are still people in our community, Australian people, who are sleeping outside in the open because they do not have a house. That is an indictment of society.

The message is simple, yet despite the Premier's best efforts to come to grips with the problem, he is simply not able to grasp the basic issues involved. The tragedy is that he does not believe his Government has a responsibility to act to remedy one of the most serious problems facing our community. It was the Premier to whom the Ombudsman referred last night on the "7.30 Report" when he described the Government's position as a dangerous charade. The Ombudsman has said that he has never encountered the level of resistance to a report as high as that displayed by the Premier in respect of the present report. If the Premier wants to protect his department from the report, he must be prepared to take the blame for its failure to address the circumstances in which Aborigines live in New South Wales. It is surprising that the Premier did not accept the resignation of the Director of the Office of Aboriginal Affairs, Mr Keith Kocken, after the office was presented with a draft copy of the Ombudsman's report in May 1992. I should be interested to hear the Premier's reason or reasons for not accepting the director's resignation. Mr Kocken should have done the honourable thing and resigned, and the Premier should have accepted his resignation. The conditions in which people live at Toomelah invoke feelings of despair and sadness. I actually spoke about Aboriginal affairs in my first speech in Parliament on 25th November, 1981 - almost 11 years ago. I quote from the same report which was referred to by the Hon. Ann Symonds - a report tabled in the Parliament in April 1981. I should like to quote again from that report:

The Aboriginal citizens of this State mainly exist in conditions of abject poverty. Their housing is substandard and overcrowded. Their health and education, abysmal. Their



employment, negligible. Their welfare and culture, ignored or deprecated . . .

Blatant discrimination based on race and the colour of skin is one of the reasons for the present intolerable situation in which Aborigines find themselves today. Apathy, indifference and ignorance by those who have the power to change this situation are the others.

Those words appear in the report of the New South Wales Legislative Assembly Select Committee upon Aborigines which was tabled in this very Parliament in April 1981. Despite what has been done by Labor and Liberal governments since then, the abject poverty is still there, the disgraceful conditions are still there. Today I learned to my surprise that 22 departments look after Aboriginal affairs, yet still the basic needs of Aborigines are not being met. Among the members of this Chamber there are members of Amnesty International; people who really care about human rights; people who are prepared to write letters to Heads of State across the world to ask for basic human rights for people. Yet in Australia we often forget such basic human rights for all people, including Aboriginal people, as clean water supplies and adequate sewerage systems. Because such basic services are not provided to places such as Toomelah people who visit the area are physically ill. I remember when I was serving on the Women's Advisory Council with the Hon. Dorothy Isaksen and others, including Liberal women from across the State, visiting many Aboriginal reserves. I was physically ill in many of them because of the overwhelming smell coming from the sewer, or lack of sewer. I am sure that in many reserves the same conditions exist today. It really is a disgrace for our community. I am reminded of the words of the Hon. E. G. Whitlam who, in 1972 when he was Leader of the Federal Opposition, said:

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Australia's real test as far as the rest of the world and particularly our region is concerned is the role we create for our own Aborigines. More than any foreign aid program, more than any international obligation which we meet or forfeit, more than any part we may play in any treaty or agreement or alliance, Australia's treatment of her own Aboriginal people will be the thing upon which the rest of the world will judge Australia and Australians; not just now but in the greater perspective of history. The Aborigines are a responsibility we cannot escape, cannot share, cannot shuffle off. The world will not let us forget that.

Those are words which I have remembered since I quoted them in Parliament 11 years ago. As has been said previously, the humanity of Australians will be judged by the conditions in which Aboriginal people live. It is not much use talking about social justice and human rights when our fellow Australians are still living in such conditions. The Hon. Ann Symonds said that she recalls speaking to a person who remembers people going out to shoot Aborigines. I certainly do not remember that but I remember very well in the early and mid-1970s, when the black rights movement started in Australia, following the movement in the United States of America, when such people as Charles Perkins and Jim Speigelman rode across country areas of New South Wales, to places such as Moree, and desegregated swimming pools, to allow blacks to swim with whites. It is in my living memory how these people were treated and discriminated against. I should like to conclude by saying that I am very proud to serve in this Parliament, which is the mother of Australian parliaments, but I remind honourable members that in 204 years of parliamentary representation in this State there has never been an Aboriginal representative in this Parliament. I submitted to my party at the State conference in June of last year that the party could not hold its head high until it gave an Aborigine the opportunity to serve either in this House or in the other House. I make a plea to the Australian Democrats and to Call to Australia -

*[Interruption]*

I hear honourable members saying that they had people on the party ticket. Just being on the ticket is not good enough if they are not really in a winnable position. I appeal to members on the crossbenches and to the National Party and the Liberal Party to ensure that the next time we have a debate on Aboriginal affairs, there is a person of Aboriginal background speaking in this Chamber. Our parties have recognised the multicultural society. In this Chamber we are proud to have members of Italian, Greek, Lebanese and Chinese backgrounds, but in the history of this Parliament we have never had a member of Aboriginal background.

**The Hon. Dr Marlene Goldsmith:** We have some on our side of politics.

**The Hon. FRANCA ARENA:** The Hon. Dr Marlene Goldsmith cannot resist bringing partisan politics into this debate. I hope that the next time there is a Liberal Party meeting she reminds her colleagues, as I have reminded mine, that a person of Aboriginal background has never served in this Parliament. Let us not worry about what happens in other Parliaments; let us worry about this Parliament, the oldest Parliament and the mother Parliament of Australia.

**The Hon. J. F. RYAN [6.1]:** I join with other members in congratulating the Hon. Elisabeth Kirkby on bringing this issue to the attention of the Parliament. It is fitting that on occasions the Parliament takes time to extensively debate Aboriginal affairs. I certainly welcome any attempt to make a contribution in that regard. However, this debate largely stems from last night's television program the "7.30 Report", which presented, somewhat of necessity, a rather distorted picture of the present situation in Toomelah. The program contained a large amount of film footage dating back to 1988. Page 9106

It revealed ramshackle houses, roads that were covered in mud, and young Aboriginal children being, for want of a better word, mustered together. Most of that film footage was taken in 1988 or earlier. When the report is dissected and the material dealing with the current situation in Toomelah is filtered out, one finds that it is, as Justice Einfeld accurately described it, 100 per cent or even 1,000 per cent better than it was in 1988. The "7.30 Report" film footage showed some recently constructed, excellent quality housing, with neat, well kept lawns in place of muddy streets, and a pre-school, which I understand opened only a week or so ago, attended by healthy children. Justice Einfeld referred to some pictures inside the pre-school taken during an excursion to Sea World, indicating that these young Aboriginal children were being given the opportunity to take part in such excursions - opportunities that are far better than those that were available to their parents.

It is not as though there has not been significant progress in Toomelah. I am perfectly happy to take up the invitation offered to honourable members by the Hon. Ann Symonds to say that I am disgusted with the conditions in which some Aboriginal people find themselves; but that is not necessarily something that should be laid entirely at the door of the Government. It takes time to overcome 204 years of abject neglect. The issues are complex and difficult, and they take time to resolve. We should look at how to make progress, rather than fight among ourselves about who was to blame for the conditions in the first place. Honourable members would be aware that after Justice Einfeld reported to the Government in 1988 on the conditions in Toomelah there was a concerted effort to improve infrastructure and programs for the Toomelah community. In conjunction with the Commonwealth Government, the New South Wales Government has spent about \$7 million in that community of about 400 persons to implement the recommendations of Justice Einfeld. This included the construction of 16 houses, with

turfing and fencing; upgrading the water and sewerage systems; construction of a health clinic; provision of medical and health services by a doctor, a nurse and an Aboriginal health worker; construction of a multipurpose centre; construction of an internal road; establishment of a community development employment project; employment, training and enterprise initiatives; construction of the old Bruxner Highway bridge; and sealing of the old Bruxner Highway.

It is not as though there has not been some progress. We might like to argue among ourselves about how fast that progress has been achieved, but it has been significant progress. It is inaccurate to suggest that the picture as Justice Einfeld saw it in 1988 is relevant to the position there now. In that context I believe that the comments made by the Ombudsman subsequent to the release of his report have constituted overkill. I only hope that this State will one day have an Ombudsman who is able to make tough, objective and telling reports to the Government about its administration, without wanting to become involved in the political debate of the day, and without making emotive comments which, as in this case, are not all that accurate. I illustrate this point by referring to the comments attributed to David Landa on the "7.30 Report" that he has never experienced the Government resisting a report like this. I fail to see how the Government resisted the report when it was tabled two days after it was brought down. When those comments were made, and I presume they were made immediately before the airing of the television program last night, many of the issues raised in the report were being addressed by the Government. The key issue of back rates for the Toomelah community is the subject of a discussion paper which is being considered by the Government, and which has been circulated to the Ombudsman for his comment.

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Given that the Government is willing to respond so quickly to the report of the Ombudsman, that can hardly be seen as enormous resistance. It is perfectly reasonable for the Ombudsman to express shock and disappointment at the conditions which might exist in Toomelah or anywhere else, but I wish that he would not undermine the quality of his report and its credibility, in some respects, by seeking to become involved in emotive discussions about blame, resistance and the reception by the Government of his report, at least until a reasonable period has lapsed for the Government to have a chance to consider its contents. We have had the report for two months, and there has been plenty of activity in that time. The central issue was flagged by the Ombudsman in his conclusions, where he stated:

This investigation confirms the essential need to maintain a central co-ordinating agency for the administration and management of Aboriginal affairs. The failures and inadequacies of the Office of Aboriginal Affairs identified in this investigation strongly suggest, however, that there should be an audit or review of the office.

This is not a new concern, and it is not something that has been limited to the Ombudsman himself. In 1988 the Government released a green paper on Aboriginal affairs in general. I would be the first to admit that many things in that paper were less than desirable, and chief among those was the attempt to undermine the policy of Aboriginal land rights. I am a great believer in Aboriginal land rights as an important means of enhancing the self-determination of Aborigines. I note that the paper dealt with the issue of co-ordination, and one of its recommendations was that there should be the establishment of a commission whose role would be to review existing State departmental Aboriginal affairs policies and develop new ones; that it should ensure that programs of relevant functional departments and agencies take proper account of the needs of the Aboriginal people of this State; that it should ensure that such departments

and agencies, where appropriate, maintain and develop special programs to meet those needs; and that it should co-ordinate more effectively the programs of functional departments and agencies to eliminate duplication of effort and so on - a central co-ordinating agency, if you like. That was rejected by the Aboriginal community. I need find no further condemnation of that suggestion than the annual report of the New South Wales Aboriginal Land Council, published in 1989. It states:

Quite simply, the State Government was stepping back to the assimilationist policies of the 1950s and 1960s which proved disastrous for Aboriginal people.

The report criticised the policy of setting up the commission. I am not going to go back in time and suggest that we need to revamp the commission - time has moved on. Nevertheless, it is accurate to say that the Government has tried, as far as possible, to implement a policy of self-determination on the part of the Aboriginal community. It is true to say that the Aboriginal community is finding it hard to come to grips with some of the requirements of that self-determination. I recognise that what I am saying is sensitive. Instead of my making the criticism, I will use the words of Millie Ingram, who pointed out some of the limitations in some of the agencies set up and run by the Aborigines to deal with these issues. On 22nd January she held a meeting with residents in Toomelah at the public school. Her report states:

Directors said that they had not attended any meetings since the September meeting yet the Chairman said meetings had been held and decisions made - that they, the Directors, should have known about the meetings. The people present were of the opinion that the decisions were made only by two people -

It names them. The report continues:

... without the full committee being present.

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Of the Toomelah-Boggabilla local Aboriginal land council, she stated:

There did not appear to be any meeting held by the LALC. There has been no funding to the LALC for four years and the council is currently under an investigator Mr Roy Merrick. The outstanding rates owed to MPSC were paid by NSWALC.

She criticised the land council. In her summary, she stated:

Many issues affect Toomelah which can only be resolved by the community themselves. It appears the people want to participate in management and decision making but this is difficult given the structure of the Co-op and the inactive LALC.

I do not highlight that as a criticism; nor do I want to suggest in any way that these people are victims. It is simply a matter of common sense that given that Aborigines have not had the opportunity to participate in their self-governance, it will take them some time to make up that sort of progress. We have two choices: we either rush in and rescue them every time there are inadequacies, or we leave them to mature and make decisions themselves. It is a hard decision to make. The last thing that anyone ought to do, when this decision needs to be made, is react in a party political manner. We have to be mature about these things - give some assistance when it is needed, but step back at other times to let them make their own mistakes and find their own way through the issues of providing health.

The Ombudsman's report raises the issue of inadequacy in Aboriginal health. It has been said time and again that there has been some question about the adequacy of health funding. There is no doubt that the Government has increased health funding for Aboriginal people quite dramatically. That funding has resulted in benefits at Toomelah such as a medical clinic, a medical officer visiting twice a week, an Aboriginal health education officer, an Aboriginal health promotional officer and an enrolled nurse, who are employed full time at the clinic; a significant program to counter and prevent the spread of hepatitis B; programs for dental health and to counter domestic violence; and a series of other services. It has been said that the Government did not spend all of the Aboriginal health budget. I am advised by the Minister for Health that although all of the funds were not spent last year, they have been rolled in to this year's budget and will be spent. It is not that the Government is not prepared to spend the money; rather, it is that sometimes these programs need time to be set up. The Government will in no way be tardy about spending; when it is possible, the money will be spent on quality programs.

After the production of a report which the Government sponsored - it set up an all-Aborigine committee - entitled, "The Last Report", because it was hoped to be the last report with respect to health funding, the then Minister for Health committed himself to spending 1 per cent of the total health budget on the Aboriginal community. The Government will implement that policy. It should be commended to every Australian government. One need not think that the Government is not prepared to commit itself to the well-being and development of the Aboriginal community. I hope that by the end of our political careers we will have seen a 100 per cent, if not a 1,000 per cent, improvement in the lot of Aborigines. It will not be achieved by our fighting among ourselves. I can quote no better source than the Hon. Ann Symonds, who said that what is needed is unity and common sense. I commend that approach. I congratulate the Hon. Elisabeth Kirkby for bringing this issue to the attention of the House.

**The Hon. PATRICIA FORSYTHE** [6.15]: No one in this House, indeed no one in this Parliament, could feel any sense of pride about statistics relating to the level of Aboriginal infant mortality, Aboriginal life expectancy, or any other figures about

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Aboriginal health or anything that signals their standard of living. We certainly could have no pride in that; but we achieve nothing unless we work at this in a bipartisan way. I know that the Hon. Elisabeth Kirkby acknowledged that the Government had been doing work in this area, but the provocative comments of the Ombudsman have given more than one Opposition speaker an opportunity to throw a few barbs, just to inject a little bit of bipartisanship, perhaps to score a political point or two. The reality is, unless we see this as a common problem and find common solutions and work together, nothing will be achieved. I wish to focus on the area of education, specifically because it was one of the areas highlighted in the report of the Human Rights and Equal Opportunity Commission. It is an area where we can see a measure of progress. I identify education against the background of the current Minister for Education and Youth Affairs and Minister for Employment and Training, a Minister who is committed to all people and who works hard for the well-being of everybody. We can look to her response of recent weeks on racism at the Casino high school; we know of her dedication and her interest. Some of the things I will focus on predate our term in government and her period as Minister. I will focus partly on Toomelah and the general developments in education.

The report of the Human Rights and Equal Opportunity Commission found with respect to education that adequate secondary education, free from discrimination, had

never been available to the Aboriginal communities at Toomelah and Boggabilla; that the conditions for pre-school education at Toomelah were very poor; that the school communities at Toomelah and Boggabilla suffered emotional distress caused by racial unrest at Goondiwindi; that the need for secondary students to travel across the border to Goondiwindi to attend school had detrimental effects - there were poor retention rates to year 10 and gross absenteeism; and that the primary school situation was encouraging due to efforts of the principal and the whole school community. The report made a number of recommendations. I wish to draw to the attention of the House how those recommendations were picked up at the time of the initial investigation and since - some of which date back to May 1987. Toomelah primary school was established in new premises at the time of the inquiry, opening with an enrolment of 105 students in six classes. Concern was focused on secondary education provision, particularly the use of Goondiwindi high school across the Queensland border.

In May 1987, an interdepartmental committee was brought together, consisting of TAFE and the Department of School Education, to develop a proposal for a joint secondary school-TAFE facility at Boggabilla. The Aboriginal Education Consultative Group, which was active in advocating improvements in education, had a representative on that interdepartmental committee. I wish to make a few remarks about the Aboriginal Education Consultative Group. A few weeks ago I had the opportunity to represent the Minister at the group's annual conference and to talk to members of it. If we are going to talk about general developments in education, we need to note the work of that consultative group, which is doing an outstanding job, and acknowledge that it has the support and commitment of this Government, as it had of the previous Government.

I turn now to the developments that we have seen. How has education improved in the area? A central school for kindergarten to year 10 was established at Boggabilla. I know that people will say that that is some distance from Toomelah, but at the time it met the needs of both communities. Certainly travelling is something that people living in rural New South Wales face; we all know of the tyranny of distance in rural Australia. The Boggabilla Central School was established in 1988. It had about 35 students enrolled in years seven to 10, of whom 80 per cent were Aboriginal. Students were initially housed in demountable accommodation. In 1990 a new TAFE facility was opened on a new joint site and the Boggabilla Central School was relocated to that site in term one,

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1992. So from term one of this year there has been a new facility at a cost of between \$2 million and \$3 million from TAFE and \$4 million from the Department of School Education - \$6 million has been spent. The facility now houses a comprehensive range of specialist facilities, a library and school and TAFE facilities, and currently has 200 TAFE students, 60 primary students and 80 secondary students. Unfortunately, we probably will not see the benefits of such a development in statistical terms for a few years yet, but the mere presence of a TAFE college of that size and with that amount of money behind it will result in a better skilled local community.

In 1991-92 a years 11 and 12 program was established to link with the northern border senior access program along with Collarenebri, Goomboora and other central schools. The first group of year 12 students is currently sitting for the higher school certificate. This joint facility was named the Euraba Education Centre in recognition of its role in responding to the needs of local Aboriginal communities. In its establishment, local Aboriginal communities were involved in consultation and at every stage their needs have been considered. In July 1987 a home school liaison program was established to liaise with parents and communities to improve the attendance of school students. It is all well and good for new schools to be opened and new facilities to be

provided, but there has to be an acknowledgment in the community of the value of being at school and of what is taught at school. That only comes through broadening the knowledge of the parents in the area. That has not been overlooked. It was not overlooked by the previous Government, and it has not been overlooked by this Government. We will not see the rewards of those programs for some years to come. These statistics will be played out for some years to come.

Social and cross-cultural support is now provided through contact with Collarenebri and Mungindi. There is a strong emphasis placed on Aboriginal studies at the Central School, and this is integrated across the curriculum into such areas as art, dance and music. I know that today we have had acknowledgment of the significance of Aboriginal cultural achievements, particularly in the education area. Currently there is debate and consultation on the best management structure for the facility, and these discussions include the establishment of a school council. In the establishment of a school council, the local community would be involved. This is part of a general philosophy of school renewal. It is no good people in Sydney discussing what that community needs; and that is the focus of this Government in the way in which it is dealing with school councils and local community consultation.

In summary, the Department of School Education and TAFE have worked co-operatively to implement the recommendations of the inquiry and to go beyond these to establish nationally recognised, high level education and training services incorporating the best aspects of distance education and computer technology, while integrating progressive curriculum to recognise the needs and the aspirations of Aboriginal communities. Staff at the schools and the TAFE college are recognised to be of high quality, and the educational leadership provided by the principals at both Boggabilla and Toomelah are exemplary. Pre-school services, one of the features identified in the original report, have been improved by the early provision of a demountable to support the operation of the community pre-school, as recommended by the inquiry. Since the report a new pre-school has been constructed using Aboriginal education policy, or AEP, funds and became operational in 1992.

Adult education operates also through Toomelah Primary School to enhance literacy, numeracy and other skills. In this way Aboriginal parents, grandparents and children can attend classes in the same community resource, and this is in keeping with

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general Aboriginal education philosophy. This has been provided after consultation with the local community. Employment opportunities have been created through the child studies introductory course in child care centres established locally. Graduates of other programs have also found part-time employment, including office traineeships, bus driving and tool store and general assistant positions. The community and TAFE have co-operated in developing a course in Aboriginal corporations. Access to other employment training courses can be made through the youth training info-line. This may sound like a long list, and indeed it is, but these initiatives are being introduced not in isolation but in consultation with the local community. It is also done after consultation and co-operation with the Office of Aboriginal Affairs, which provides advice to the Premier. I heard comments last night about the activities involving 22 different departments, but if the record of achievement of each of these departments is considered one would see that there has been progress. It is not a question of co-operation, lack of co-operation or one group doing something without telling the other. There has been achievement all the way down the line.

The AEP Co-ordinating Committee, which provides advice to the Office of Aboriginal Affairs, is made up of senior Aboriginal officers with operational

responsibilities across education. It has a key role in planning and policy advice, being the developer of the New South Wales AEP strategic and operational plans. The committee is chaired by the President of the Aboriginal Education Consultative Group, which provides the committee's executive. There was consultation in developing the plans. The strategic and operational plans were endorsed by the AECG's State executive and discussed by community groups before they were submitted for ministerial endorsement. In this way they reflect Aboriginal education philosophy, needs and aspirations. There is a high degree of commitment to Aboriginal involvement in planning and decision-making within the portfolio. Not only is there overall planning through the central co-ordinating committee, chaired by the AECG, but each large department, including the Board of Studies, Department of School Education and TAFE, has a central advisory committee supported by regional advisory committees. In general, there is work being done for Aborigines by Aborigines. The New South Wales AECG is a member of these committees as well as of major advisory and curriculum committees. So we have not left Aborigines out of determining what they study and what other people in New South Wales study. If we are to achieve anything, we must break down the barriers across the State. The curriculum must assist in developing a better understanding in the whole community. That is one of the key objects of the Minister.

The New South Wales Aboriginal education policy and strategic plan provides a co-ordinated comprehensive plan for Aboriginal education from pre-school to post-compulsory education, including recommendations for higher education. This has been driven by Aboriginal people and is endorsed by the New South Wales AECG and the Minister and supported wholeheartedly by the Government. Early childhood education was identified as one of the six priority areas agreed to by the Government and Aboriginal people for the next triennium. Funding is provided for 26 independent Aboriginal pre-schools. Also provided are funds for a program of expansion of Aboriginal pre-schools under the auspices of the Department of School Education. This program is to expand in the next triennium. These are important initiatives for pre-school and kindergarten to year 12. There is a new emphasis in years 11 and 12 on TAFE and developing skills. The rewards will be over the long term, but the rewards will become evident, because throughout the process there has been consultation with Aboriginal communities in Toomelah, Boggabilla and the broader New South Wales community. I commend the Hon. Elisabeth Kirkby for raising this matter. I hope that it will develop in a bipartisan way, because we will achieve nothing unless we do it together.

*[The Deputy-President (The Hon. Dr Marlene Goldsmith) left the chair at 6.30 p.m. The House resumed at 8.15 p.m.]*

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**The Hon. R. S. L. JONES** [8.15]: The Ombudsman's report on Toomelah, which became available to honourable members yesterday, has been the subject of considerable debate. I have had the opportunity of reading most of the report and am appalled at what I have read. The Attorney General and the Government cannot possibly dismiss the report or not accord it the credibility and strength of acceptance that it deserves. The Ombudsman would not stick his neck out as he has done in the report if he did not truly believe what he has said about conditions at Toomelah. The "7.30 Report" - other members saw that program and other television coverage last night - was not unduly coloured, nevertheless it appalled me. Conditions at Toomelah were worse in 1988 and much worse 20 years ago than today, but Aborigines have been suffering like that since we disturbed their way of life 204 years ago. The Toomelah community has one of the worst living standards in New South Wales. I am not surprised that Justice



Marcus Einfeld cried when he visited that place in 1988; I am sure I would also cry if I went to Toomelah and witnessed its present day conditions.

Since 1988 more houses have been built at Toomelah, some of its roads have been paved and conditions have improved. However, the Ombudsman's report and the television coverage prove that conditions there can only be described as those of the Third World. Australia cannot point the finger at South Africa for its treatment of native peoples or at Iraq for its treatment of the Kurds if it allows its indigenous people to live in such conditions. We cannot hold up our heads in international fora until the Aboriginal people, who have been treated so badly in the past 200 years, are housed, fed and educated and are living healthily in conditions similar to those of white people generally. The last health test of the Toomelah community in 1988 showed that 85 per cent of the people had hepatitis B - an extraordinarily high proportion of the population. At least one case of hepatitis A has been detected this year. No health test has been done at Toomelah since 1988. The Government knew the results of that health test four years ago and should not have allowed that situation to continue.

I am appalled that the budget of the Department of Health for last year of \$4.5 million for Aboriginal health - as revealed by my colleague in the estimates committee - was underspent by one-third or \$1.5 million. That is scandalous when one realises that the Government knew four years ago that the Toomelah community had a hepatitis plague going through it. The Government has not been as caring as it should have been. The Premier has taken upon himself responsibility for the Aboriginal Affairs portfolio and must accept responsibility for the findings of the report, which cannot be sheeted home to the Office of Aboriginal Affairs. The buck has to stop with the Premier. I hope the Premier by now has had an opportunity to read at least the report's blue and green pages, if not the white pages, to get an idea of Toomelah's appalling conditions. He should know by now that the advice that he has been given is wrong. If he read the report and saw the "7.30 Report" he should know that the sewerage system at Toomelah is leaking and causing terrible health problems. No other community in New South Wales would put up with that. The Premier should know by now that the Toomelah water system has a hole in it and water is cascading out of it. That water system was not repaired until two or three days ago, despite repeated requests by the community. Those people have been paying rates to Moree Plains Shire Council and have been rated at up to 40 per cent of the value of their homes. They are paying rates but are getting no service in return for them. The comment was made on the "7.30 Report" that the only service those people are receiving is delivery of their rate notices, yet their water supply was not repaired after repeated complaints to the council.

**The Hon. D. F. Moppett:** That is absolute nonsense.

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**The Hon. R. S. L. JONES:** One National Party member believes he knows better. The Attorney General commented on the timing of the report and how, according to him, the Ombudsman rushed it through. The Minister may remember that I interjected during his speech and said that the Ombudsman had furnished the Premier with a draft report at a meeting with the Premier on 16th September, 1992. The Premier has had almost two months to read the report, consider its implications and decide what to do about its findings. The Ombudsman wrote to the Premier on 12th October and, as it says on page 8 of the report, at that date no response had been made by the Premier. The Premier advised the Ombudsman on 16th October that he was currently having his officers examine the draft report and he anticipated that he would request a consultation. The Premier said, "I expect to be in a position to write to you again before 23rd October".

This was already a month on. The Ombudsman replied to the Premier on the same date advising him that the report should be made public as a matter of urgency. The Ombudsman added that he could see no valid reason why the Premier had not been briefed by his department as the department had been alerted to the maladministration in Aboriginal affairs as long as six months ago. Further, the draft report had been with him for five weeks. The Ombudsman asked the Premier to reconsider the time frame. Finally, on 22nd October, the Premier forwarded a briefing from his department in response to the draft report together with an advising from the Crown Solicitor and comments from the Director-General of the Department of Local Government.

The Premier has had ample time to look at this report. It was not rushed through. I have here the letter that David Landa sent to the Director of the Office of Aboriginal Affairs, which was handed to me by the Attorney General and Minister for Industrial Relations when I interrupted him. It is true that the final report was not sent to Mr Kocken until the night of 9th November and received in his office on 10th November at 9.45 a.m. Even so, he had a few days to look at the report. But he had received the report some two months before. So there is no validity in the assertion by the Attorney General that there was political motivation by Mr Landa to push this matter to get media coverage. That is a load of rubbish. Since this debate commenced a lot has been said and much of what I was going to say has already been said. So I do not see much point in reiterating many of the problems elucidated in the report. The findings and the recommendations have also been put on the record.

We have a special responsibility to the Aboriginal people. In the past 204 years they have received a very raw deal. We saw in the "7.30 Report" that children had been taken from their mothers and fostered away without the consent of the mothers. How would we like that if it happened to us? If this country were occupied by another race and our children were taken away for education we would be absolutely outraged. The woman interviewed on the television program shown last night said that they used to hide from the people who would come to take the children. We do not necessarily have to continue bearing the guilt of our forefathers or those who came before us but we have a special obligation to make amends and to make sure that the people who live in places such as Toomelah and many other communities in New South Wales - it is said that Toomelah is just the tip of the iceberg; many other communities live in such conditions - have an improved standard of living and better housing. There are 30 families at Toomelah who have nowhere to sleep tonight. Surely there is enough in some budget somewhere - whether it be in the Office of Aboriginal Affairs, the Premier's Department - or as a special consideration to provide at least tents for these people to live in tonight or next week.

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It has been known for the past two months that 30 families are without houses. We do not accept that for the Kurds or the people in Bosnia-Herzegovina. We give them aid. We give aid to the people in Somalia and Mozambique. But our own people are living without homes a short plane flight away. I do not believe that is acceptable. We have a special responsibility to look after these people. This is their land. We took it from them. The High Court of Australia has finally ruled that Australia was not terra nullius when our forefathers arrived 204 years ago. The Aborigines had a very complex culture, language and way of life, quite different from ours. It is the longest remaining civilisation on earth. The youngest civilisation, the white Australians, clashed with the oldest civilisation. Because we took the land of the Aborigines without recompense we have a special responsibility to make sure that the people at Toomelah have houses to live in. The money allocated to the Department of Health for Aborigines should be spent as a

priority. Families at Toomelah should be examined to see how many have hepatitis A, hepatitis B and other illnesses. The sewerage should be fixed up immediately, not in a few weeks time. The dripping water tank shown on the "7.30 Report" should be fixed immediately, especially during a drought period.

The Premier has known of the situation for quite some time. As I said, he has taken it upon himself to be in charge of Aboriginal affairs, so he cannot escape responsibility. There is no use in his attacking the Ombudsman and condemning the report. As has been canvassed at some length in this debate, it is a valid report. There is no reason why this community should pay rates. If there is a legal loophole which requires that the community pay rates - I do not believe there is, as I have read in the report - the law should be changed to allow the community, as a non-profit making co-operative, not to pay rates when it is receiving no services whatsoever from the council. A program is needed to determine how we should treat the indigenous people we have persecuted, if you like, for the past 204 years. I reject the suggestion by the Attorney General that this is a paternalistic attitude. I do not think we are being paternalistic.

We have a responsibility to provide at least the same level of health, housing, water, and sewerage services as provided to any other community in New South Wales. Their services should not be of Third World standard. We cannot point the finger at anybody else in the world while our people are living in these conditions. I urge the Premier to spend this weekend looking at the report. Perhaps he should visit Toomelah. I would be happy to accompany him. Perhaps we should all go. I am not sure the people would want us there. We should see the conditions in which the people are living. We are all responsible, not just the Premier. The Australian Labor Party did not act to remedy the problems when it was in government. Jointly and severally we are responsible for what happens there. The problem cannot be sheeted home to one person who is in charge of the Office of Aboriginal Affairs, Mr Kocken. We all must take responsibility.

**Reverend the Hon. F. J. NILE** [8.30]: I speak to the matter raised by the Hon. Elisabeth Kirkby, which relates, first, to the report of the Ombudsman entitled "Investigation into the conduct of the Office of Aboriginal Affairs following a complaint by the Toomelah Local Aboriginal Land Council and the Toomelah Aboriginal Co-operative" dated 9th November, 1992; second, to the report of the Ombudsman entitled "Concerning maladministration of the Office of Aboriginal Affairs and the consequences upon the people of Toomelah and Aboriginal communities in general" dated 12th November, 1992; and, third, to the report of the Human Rights and Equal Opportunity Commission entitled "Toomelah Report - Report of the problems and needs of Aborigines living on the New South Wales-Queensland Border" dated June 1988. A number of honourable members saw the segment on the "7.30 Report" about the Ombudsman's

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report and also saw the Ombudsman himself. As other speakers have said, some confusion and deception was caused by the Australian Broadcasting Corporation cleverly editing old library film into the segment and continually cutting backwards and forwards. In my opinion the television report presented a far more serious picture than is in fact the case. The situation at Toomelah is serious, but the report had an exaggerated impact and did the credibility of the Australian Broadcasting Corporation no good.

It would have been far better to show clearly the old film material and then show sequence by sequence the changes that have occurred since that original material was filmed. As other speakers have pointed out, the report of the Human Rights and Equal

Opportunity Commission is dated June 1988. Investigations were carried out prior to June 1988, and blind Freddie knows that the Australian Labor Party was in government from 1976 to 1988. The 1988 election was held on 19th March. The coalition Government could hardly have been expected to introduce major reforms between March and June 1988. In other words, the report of the Human Rights and Equal Opportunity Commission was a condemnation of the Australian Labor Party's lack of policy. The policies and attitudes of the Government from 1988 to the present time have also been criticised. From 1988 until the election in 1991 the coalition Government was restricted in taking action because the Australian Labor Party and the Australian Democrats had control of the Legislative Council. That was a significant factor. One could ask what was done between 1976 and 1988 and what initiatives were taken between 1988 and 1991.

Since I was first elected to Parliament in 1981, I have raised many issues concerning the Aboriginal people. I have done that through material in my speeches as well as questions, which have often been given to me by the Aboriginal people. I have endeavoured to stay in touch with them constantly. I have said to them, and they have been pleased to accept, that so far as policies relating to Aborigines are concerned, what I think is not important; the policies they present to me, which I then present to Parliament on their behalf, are the important matters. I have endeavoured to faithfully fulfil that commitment to them. During the debate the Hon. Franca Arena criticised the fact that there are no Aboriginal representatives in this Parliament. Obviously there are none, and I concur with that criticism. Like the Hon. Franca Arena, I believe there should be some Aboriginal representatives in this place. As I interjected during her remarks, over the years the Call to Australia group has nominated more Aboriginal candidates than any other party in Australia.

**The Hon. Helen Sham-Ho:** The Liberal Party nominated one Aborigine in the past.

**Reverend the Hon. F. J. NILE:** Yes, for the Senate. I am well aware of him, and I greatly respect the former senator from Queensland. However, the point I am making is that Call to Australia has nominated more Aboriginal candidates than any political party in Australia. During the 1991 State election campaign I was interviewed by the Australian Broadcasting Corporation. A matter was brought to my attention which I obviously had not bothered to examine because it was not a point that I intended to make, and I certainly did not make it at that time. The interviewer said to me, "Are you aware that no Aboriginal candidates have even been nominated for the lower House or the upper House in this election?" I had not checked every candidate and I assumed that to be the fact. The interviewer told me that the Australian Broadcasting Corporation had in fact checked. That was one of the few occasions on which the Australian Broadcasting Corporation was complimentary to me. The interviewer noted that Call to Australia had nominated two candidates. One of those candidates was Doug Williams who stood for

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the electorate of Clarence. He was an active Aboriginal leader in that area and hoped to represent the Aboriginal people who make up a large percentage of the population in that electorate. The other candidate was Pastor Bill Bird, who was a member of our upper House team.

Over the years Call to Australia has nominated Bob Brown to lead its team of candidates for the Senate - not second, third or fourth on the ticket, but to lead the team. The Reverend Cedric Jacobs, an Aboriginal leader, was nominated to lead our Western Australian Senate ticket. All the candidates have done very well. Bob Brown narrowly

missed winning a seat in one of the Western Australian elections for the State upper House. He led the Call to Australia team in that election. Call to Australia, which has only minor parliamentary representation, has sincerely done all it can to get an Aborigine elected to either State or Federal Parliament. I agree that it would be helpful to hear Aboriginal members of Parliament explaining their points of view rather than all of us acting as second-hand representatives. If Aboriginal representatives could speak in their own right in this Parliament that would have a major positive impact on the Aboriginal people.

In his report the Ombudsman has made certain findings. His terms of reference were his own and were based on the complaint he received from the Toomelah area. If he had investigated other areas I am sure he would have received similar, if not more serious, complaints from areas with which I have had contact in relation to housing, sewerage, health, water and so on. On a number of occasions I have raised with members of the Government instances where local councils have cut off the water supply to Aboriginal communities because rates have not been paid. Communities of 200 or 300 Aboriginal families - men, women and children - have literally had no water. The councils have said that when the rates were paid they would turn the water supply back on. I have raised that matter with the Office of Aboriginal Affairs because something urgent had to be done. A health risk was involved and communications had obviously broken down when councils in various areas believed that if they adopted the tactic of suddenly turning the water off, the money would magically appear. There was no money. The water could have been turned off for 100 years and there still would have been no money to pay the rates. I am pleased to say that on those occasions the Government, in the interests of health, acted to ensure that the water supply was turned back on.

In part 1 of his report, in the executive overview, the Ombudsman listed his major finding as "Complaint About Rates". I do not underestimate the seriousness of that finding because, as I said, the water was turned off. If the Ombudsman had investigated other areas more closely, I believe he would have found more serious problems, which perhaps reflect on all governments rather than one particular government and indicate some serious breakdown between concerns expressed by parliaments and political parties. This would result in spending huge amounts of money to finally benefit people at the grass roots area, such as Aboriginal people themselves.

**The Hon. D. F. Moppett:** Are you suggesting that they do not have any money at their disposal? Is that your impression?

**Reverend the Hon. F. J. NILE:** I suggest that they have some money, but I submit that if a bill for \$34,000 for water rates is received, no one in such a community would have \$34,000. Generally they receive unemployment benefits or would have other sources of low income.

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**The Hon. D. F. Moppett:** You are not suggesting that the annual water bill is \$34,000, are you?

**Reverend the Hon. F. J. NILE:** Yes. It is not a bill for one person, it is the bill for the whole community. Because the council claims it cannot pin down a particular family, it adds all the accounts together and bills the whole community. The community is not organised to the extent that they can levy people within the community, so there is a breakdown.

**The Hon. D. F. Moppett:** They must have an irrigation farm to use so much water.

**Reverend the Hon. F. J. NILE:** The Hon. D. F. Moppett may not be too far from the truth. That particular community had a sewerage system installed by the Federal Government which completely broke down. In fact, there was a lake surrounding the sewerage system. It had become an irrigation area, so to speak, which spoiled good land that the community was seeking to use for farming purposes. The problem was that no one asked if they wanted a sewerage system and no one ever asked where it should be located. It was put in the wrong place at the wrong time and was not maintained, so it used excessive amounts of water. I am not questioning the council's method of assessing water usage, but there was certainly water everywhere when I inspected that particular site. Those are just some of the practical problems. The Aboriginal people feel that, though they are adults and parents and are active in community affairs, they are treated like children. They have informed me that truckloads of equipment which they had never asked for would arrive. This happened principally at the direction of the Federal Government, which, with all good intentions, was attempting to do something worth while.

**The Hon. D. F. Moppett:** Are we not running the risk of treating them as children if we do not hold them accountable for running their own affairs, when, in fact, each responsibility is probably only a very small one?

**The PRESIDENT:** Order! The Hon. D. F. Moppett may contribute to debate at a later time if he wishes to do so.

**Reverend the Hon. F. J. NILE:** They are certainly being treated as children. They should be treated as responsible adults and given a fair go. The Hon. Elisabeth Kirkby has a sincere interest in raising this matter, but things must be put in context. The Ombudsman referred to one particular issue, a complaint about rates, when he could have covered many other areas of Aboriginal neglect in New South Wales. The report said:

The investigation under the Ombudsman Act identified areas of major maladministration on the part of the Office of Aboriginal Affairs, the most serious being its overview of the rating of Aboriginal land.

The Office failed to comprehend that the Toomelah Co-operative is entitled to exemption from the application of rates under the long-standing provisions of section 132(1)(d) of the Local Government Act because it is a Community Advancement Society under the Co-operation Act, having charitable purposes.

Section 132(1)(d) is administered inconsistently by local authorities in NSW.

There is some debate as to whether Aboriginal communities can legally be regarded as having a charitable purpose. If I had my way, I would delete the reference to having charitable purposes. It seems to me to be an unfair definition which does not appear to apply in other areas and to other organisations.

**The Hon. Elisabeth Kirkby:** In respect of the Baptist church, it does. The Baptist church does not pay rates.

**Reverend the Hon. F. J. NILE:** That is what I am saying. How can it be said that an Aboriginal community can be legally regarded as having a charitable purpose? To do so again puts Aborigines into some sort of second-class category. They are not a charitable organisation; they are battling to survive on limited land which often is not very good. Therefore, special provisions should be made. As honourable members would know, in most instances land rates are assessed having regard to the value of the property concerned. In this case there is no way that the community could sell the land, yet the rates are half the value of the block of land. That is a ridiculous situation. The whole system of trying to rate Aboriginal properties is doomed to failure. Aboriginal people keep asking me: where does all the money go? Very few of them see it. On my estimate the Federal Government Budget is well in excess of \$1 billion a year - over 10 years that is a total of \$10 billion. The State Budget averages more than \$1 million a year - approximately \$14 million in a 10-year period. The land council received \$46 million in 1991-92. The big question is: where does all the money go? I believe a lot of it is used up by the bureaucracy from the Federal Government down, level by level. There is a trickle-down effect to Aboriginal people - *[Time expired.]*

**The Hon. ELISABETH KIRKBY** [8.45], in reply: I thank all honourable members for their contributions to the debate today. I thank particularly my colleague the Hon. R. S. L. Jones, who I believe made a most important contribution because he outlined the dates and refuted the timetable of when the report was actually brought to the attention of the Premier and the Office of Aboriginal Affairs. This was mentioned in the remarks of the Leader of the House who, naturally enough, defended the Government's position. But the Leader of the House made an extraordinary statement when he said that he believed that the Ombudsman had adopted a situation that would lead to the Department of Aboriginal Affairs adopting a paternalistic role. He also accused me of the adopting the same approach; that I believed the paternalistic approach was the correct approach. I would suggest that it is not paternalistic to advise Aboriginal communities on accounting procedures. In fact, that is one of the statements of their function that has been laid down by the Office of Aboriginal Affairs.

It is certainly not paternalistic not to spend all the Aboriginal health allocation. It is a disgrace that in 1991-92 \$1.5 million of money allocated to Aboriginal health was not spent. In my opinion, if money is allocated in a budget, it is just as reprehensible not to spend that money as it is to overspend or waste money, particularly when honourable members know that, in the case of Toomelah, the health of residents is deteriorating. The Leader of the Government made much of the fact that there was only one case of hepatitis A diagnosed at Toomelah. But he cannot deny that 85 per cent of the population at Toomelah suffered from hepatitis B. Can honourable members imagine what would happen in any small town in New South Wales with a predominantly white population if it was discovered by the medical officer that 85 per cent of the residents had hepatitis B? It would be regarded as an outrage and a matter of the greatest significance which would have to be corrected. I ask the Leader of the Government if he is suggesting that the doctor in the health clinic at Toomelah was lying when he was interviewed on the "7.30 Report"? Is that what the Minister is suggesting? Was Les Trindall lying when he made his comments in February 1992 about the rate of illness in Toomelah? I cannot put any other interpretation on the remarks of the Leader of the Government.

It has been suggested by the Government that many meetings with the Aboriginal community of Toomelah have taken place. Meetings will not give the Kooris of Toomelah the ability to manage their own affairs. They have asked for advice and help to regularise their accounting procedures and to prepare proper audited accounts to

enable

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them, under legislation laid down by this Government, to get funding from the Aboriginal Land Council of New South Wales, and I cannot understand why they are not receiving that help. The Hon. J. M. Samios in his contribution confirmed my figures on the population of Toomelah and the income of the people living there. Unfortunately, he was not able to prove that the Office of Aboriginal Affairs was carrying out a co-ordinating role. Therefore, I can see no purpose in saying that it is necessary for matters to be co-ordinated and that to assist Aboriginal communities of New South Wales to co-ordinate their problems, in particular at Toomelah where 22 government agencies are involved, co-ordination can take place without setting in place a legal commission. The advice of the Department of Local Government and Co-operatives and the discussion paper that was drawn up at the request of Mr Greiner when he was Premier of New South Wales is typical of the bureaucratic delay to which the community has been subjected. In 1989, after a statement by former Premier Greiner, the report of the committee on Aborigines in local government, which is an appendix to the Ombudsman's report, was first suggested.

Since that time a discussion paper has been prepared, and it is this discussion paper to which the Ombudsman has addressed his comments. However, this is now four years down the track. How much longer is the Government going to insist on further discussion about how an Aboriginal community should or should not be rated? It has taken four years to date for the discussion paper to be drawn up, handed out and discussed, and the Government has not yet reached any decision on how those recommendations will be implemented. If it has taken four years to have a discussion paper drawn up, will the Government inform honourable members how much longer it will take to implement those recommendations? I believe that that is what the Ombudsman was concerned about in his report.

The Hon. Ann Symonds made a valid point when she spoke about the significance of Aboriginal culture, particularly so far as tourists to Australia are concerned. They do not come here only to see the Sydney Harbour Bridge, the Opera House, the Barrier Reef, or our major centres. They are significantly interested in the history and culture of the indigenous people of this continent - the Aborigines. That is why the tourism industry has expanded in Alice Springs and Uluru. The honourable member's comments about the value of Aboriginal art should also be taken into consideration. It is now recognised worldwide as significant art, just as the Aboriginal rock paintings are recognised as significant art. The Hon. Jennifer Gardiner spoke about things that have been done for Kooris in other parts of New South Wales. She mentioned the housing development in Boggabilla. I am sure it has occurred to the honourable member that Toomelah residents may not wish to live in Boggabilla and that even if they go to Boggabilla, they may not get a better style of house. Such social engineering has been tried in the past with lamentable results. It is wrong to suggest to people who are not living in comfortable circumstances that they would be better to move somewhere else and then blame them because they do not go.

The honourable member spoke also about the supposed agreement with the Moree Plains Shire Council. Why should the residents of Toomelah have to sign an agreement with the council for sewerage services and the provision of water and roads that are provided to white communities without their having to sign any such agreement? Money allocated to Aboriginal health is of no value unless it is spent. It is no use appearing as a magic figure in the Budget Papers, as it does in this year's Budget Papers, or being carried over from one financial year to the next financial year. It should be spent in the financial year to which it is allocated. The outbreaks of gastroenteritis and



hepatitis B in Toomelah deserve further medical attention. These are diseases of the  
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Third World. A small proportion of the Government's \$1.5 million Aboriginal health budget could have been allocated to the medical officers and staff at Toomelah to help them combat those outbreaks. The Hon. Franca Arena was quite right when she suggested that the Government was blaming the victim. Government members inferred that the victims are at fault because they have not entered into a proper agreement to maintain their roads or their houses. I ask honourable members to consider how many members of the white community are able to keep their own roads, sewerage systems and water supplies in a good state of repair? They simply do not have that ability.

I do not concur with the suggestion of the Hon. J. F. Ryan that the "7.30 Report" showed old film footage. The footage of the sewerage and water supply at Toomelah was current, and was not denied by the spokesperson for the Moree Plains Shire Council. The honourable member requested that members of this Chamber make objective statements. The Ombudsman makes objective statements but again it seems to be a question of killing the messenger because the messenger has uncomplimentary things to say about a government department. The time frame of the report was dealt with in detail by my colleague the Hon. R. S. L. Jones, and I will not go over that ground again. The Hon. Patricia Forsythe spoke about the provocative comments by the Ombudsman and went on to detail, quite rightly, how Aboriginal education was being expanded. However, the TAFE college established at Boggabilla is 18 kilometres from Toomelah, and the residents face transport problems over country roads.

I turn now to the comments made by Reverend the Hon. F. J. Nile. At the beginning of his contribution he criticised the "7.30 Report". He made an attack on the Australian Broadcasting Corporation, the Australian Labor Party and the Australian Democrats. I place on record that the Australian Democrats have also had members of the Aboriginal community as candidates. I remind honourable members that one of the most famous of all Aborigines in this country, Burnum Burnum, stood for the seat of North Sydney in a by-election. The Australian Democrats have had other Aboriginal candidates in both State and Federal elections, and not only in New South Wales. The Ombudsman does not deny that Toomelah is the tip of the iceberg, which is another point made by Reverend the Hon. F. J. Nile. The honourable member spoke about areas of the State that he has visited where the conditions in Aboriginal communities were as bad or, by way of interjection, even worse than what was shown last night on the "7.30 Report". That is perfectly true and I do not deny it. From my own experience conditions at Baryulgil, which I have visited on three occasions, are just as bad, if not worse, than those at Toomelah. They certainly have not been rectified, in spite of representations made to the Federal and State governments.

It is well known that things are just as bad, if not worse, in other areas. The Hon. D. F. Moppett, by way of interjection, referred to rates. It must be put on the record that the rates, and the escalating debt that those rates have forced the people of Toomelah into, have to be placed high on the agenda. This debt is escalating all the time. If they could not get out of debt two years ago, how are they going to get out of debt this year or next year if something is not done to address the situation? I beg the Government to act urgently to respond to its own discussion paper on rating so far as the Aboriginal community is concerned. In conclusion, I repeat what I said in my opening remarks - at that time I attributed the words to Commissioner Irene Moss but I have since been informed that they were made by Mr Justice Marcus Einfeld; they certainly appear in the Human Rights and Equal Opportunity Commission report on the people of Toomelah - words, intention and good will are simply not sufficient. Regrettably, that is a fact. I urge the Government to act now. [*Time expired.*]

**Motion, by leave, withdrawn.**

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**ENVIRONMENTAL PLANNING AND ASSESSMENT (MISCELLANEOUS  
AMENDMENTS) BILL**

**Bill introduced and read a first time.**

**Second Reading**

**The Hon. R. J. WEBSTER** (Minister for Planning, and Minister for Housing)  
[9.2]: Pursuant to sessional order, I move:

That this bill be now read a second time.

The bill proposes a number of amendments to the Environmental Planning and Assessment Act, which are varied but minor in nature. The amendments are aimed at removing anomalies and technical difficulties in the current legislation which have been identified in recent years as well as through the recent review of the planning system. Some of these amendments were foreshadowed in the discussion paper "Modernising the Planning System in NSW", published in November 1991. Each of the amendments will result in the Environmental Planning and Assessment Act operating in a more streamlined manner and, in some cases, with more certainty. I do not propose to detail each amendment, but I will explain some of them to demonstrate how the amendments will improve the current system. The amendment contained in part 3 of the schedule to the bill inserts a new section 68(3B). The section provides for a local council to re-exhibit a draft local environmental plan which has been amended by the council before the draft plan is submitted to the Department of Planning. Currently such a re-exhibition could be held, but it has no formal role in the plan-making process. It is important that such re-exhibitions are recognised as part of the process and that any further public submissions can be considered by the council and included when the draft plan is submitted to the Secretary of the Department of Planning. Of course, such re-exhibitions will not be required in the majority of cases, and the question of whether a draft plan should be re-exhibited is one for the council to determine. The amendment will, however, address such occasions where an amendment or amendments to a draft plan warrant the opportunity being given for further public participation.

The amendment contained in part 5 of the schedule to the bill addresses an important technical difficulty in the Act which can lead to inequitable results. A development consent generally will lapse after two years of being granted unless the development authorised by the consent has commenced. A person may apply to extend the time to commence development under a development consent from two years to three years. If such an application is refused, an appeal may be lodged with the court. When the court determines the appeal, which in some cases may be several months into the extra 12-month period, it has the power only to grant the extension for the balance of the 12-month period. So in many cases this will result in a period shorter than 12 months being granted in which to commence under the consent. In fact, in a case before the court last year the period of the extension was two days. This is clearly unacceptable. The amendment will allow either the consent authority or the court to grant an effective extra 12 months from the date of its decision, if that decision is made after the initial two years expires.

The amendments contained in parts 7 and 8 of the schedule, although minor, will, I believe, be of benefit to consent authorities, particularly councils. Part 7 will amend section 102 of the Act to provide for a consent authority to be paid a fee for processing an application for modification of a development consent. The amendment

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acknowledges that these applications involve councils in the expenditure of resources to ensure that all parties entitled to be notified are notified and that the application is fully considered. The actual fees will be prescribed in the regulation, which, it is anticipated, will provide for a scale of fees to reflect the expenses incurred in processing various applications. To complement the fee amendment, section 102 is also being amended to require that the various heads of consideration contained in section 90 of the Act, as are of relevance, are considered by a consent authority determining an application to modify a development consent. Currently the Act does not specify that any matters must be taken into account when determining such modification applications. The amendment will ensure a consistent approach is adopted between the consideration of original development applications and applications to modify.

I would also like to elaborate on the amendment contained in part 10 of the schedule to the bill. This amendment clarifies the Minister's power to call a commission of inquiry into the environmental aspects of development which is not designated and is the subject of a development application. Though it is not anticipated that the occasion will arise very frequently, there have been several occasions in the past where such an inquiry has been considered necessary, and the Act will now specifically recognise such occasions. In contrast to the situation where inquiries are called in respect of designated development, the Minister will not determine the development applications. That function will remain with council which, of course, will have the benefit of the commission of inquiry's report when determining the development application. Finally, I would like to mention the proposed increase in penalties contained in part 11 of the schedule. The penalties for offences against the Act have not been reviewed since the Act commenced in 1980. The main penalty has been increased from \$20,000 to \$100,000. The increase, although substantial, is commensurate with other environmental legislation. Honourable members should be aware that all of the amendments are explained in detail in the explanatory notes set out in the bill at the end of each part. I commend the bill to the House.

**Debate adjourned on motion by the Hon. K. J. Enderbury.**

## **CRIMINAL PROCEDURE (SENTENCE INDICATION) AMENDMENT BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**The Hon. J. P. HANNAFORD** (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [9.9]: Pursuant to sessional order, I move:

That this bill be now read a second time.

The object of the Criminal Procedure (Sentence Indication) Amendment Bill is to amend the Criminal Procedure Act 1986 to enable a sentence indication hearing pilot scheme to be conducted in the District Court. The scheme will operate between 1st February, 1992, and 31st January, 1995, inclusive. The two-year time frame will allow for the operation and proper monitoring and evaluation of the pilot scheme. Monitoring and evaluation of

the scheme will be undertaken by the Bureau of Crime Statistics and Research. The pilot

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scheme is intended to be conducted at the Parramatta District Court unless unforeseen difficulties prevent its continuation or conclusion at Parramatta whereupon it will be moved to another District Court. The aim of the sentence indication hearing pilot scheme is to encourage pleas, reduce the number of trials before the District Court, dispose of matters more quickly in the interests of justice and thereby reduce trial preparation time and costs.

The pilot scheme will enable accused persons on or before arraignment to apply once only for a sentence indication hearing. If the accused pleads guilty, the matter will be stood over for sentence before the same judge in the interests of fairness. If the accused however pleads not guilty, he will proceed to trial before another judge without any prejudice or penalty being applied for rejecting the sentence indication. The accused cannot however rely on the forfeited sentence indication once the matter has proceeded to trial. All sentence indication hearings will be conducted in open court in the interests of justice. At the sentence indication hearing, the judge may indicate to the accused person what sentence that person is likely to receive if he or she were to plead guilty to the offence charged or to a lesser or another charge arising out of the same circumstances. In giving a sentence indication, a judge will be entitled to consider any material available to him or her when sentencing an accused person who has pleaded guilty. This could include, for example, the alleged facts of the case, the accused's criminal history and other subjective matters such as the accused's employment record or contribution to the community.

The bill will also allow a judge conducting a sentence indication hearing the discretion to make certain orders suppressing publication of those proceedings. This will allow sentence indication hearings to operate smoothly in open court and without prejudice to the accused or to a potential jury should the matter proceed to trial. The nature and extent of the suppression orders will depend on the individual requirements of the case. In some cases for example it may be enough to simply prohibit publication of the name of the accused. However, in proceedings likely to attract publicity the suppression of further information may be necessary so that the accused's right to a fair trial is not in any way jeopardised. The bill allows a judge conducting a sentence indication hearing to make one or more of the following suppression orders: first, direct that any matter which might disclose the identity of the accused person should not be published; second, prohibit publication of any other matter disclosed during a sentence indication hearing that might prejudice the right of the accused to a fair trial or might prejudice a potential jury; and, third, limit the time during which an order made under the sentence indication hearing will operate until the accused person has pleaded guilty or a jury has returned its verdict.

The bill also enables the court to deal with breaches of suppression orders by way of contempt proceedings in accordance with the District Court Act 1973. It has been considered necessary to give the District Court specific powers to make suppression orders in sentence indication hearings to overcome the uncertainty of the court's inherent powers to make such orders. The right of an accused person to appeal to the Court of Criminal Appeal upon conviction and sentence will not be affected. I am sure honourable members will agree that the sentence indication pilot scheme is an innovative and worthwhile proposal that will add to the efficiency of our legal system and cut down delays in obtaining justice. I commend to the House the bill.

**Debate adjourned on motion by the Hon. R. D. Dyer.**

**WORKERS COMPENSATION LEGISLATION (FURTHER AMENDMENT)  
BILL**

**Bill introduced and read a first time.**

**Second Reading**

**The Hon. J. P. HANNAFORD** (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [9.16]: Pursuant to sessional orders, I move:

That this bill be now read a second time.

The main objects of the proposed legislation are: to improve and simplify benefit provisions for partially incapacitated workers who are unemployed; to increase lump sum entitlements of workers who suffer injuries resulting in permanent disfigurement; to remove the 18-month time limit for commencement of work-related common law claims, leaving the general three-year limitation period; to introduce provision for group self-insurer licences; to update provisions on workers' compensation insurance for Government employees; and to make various miscellaneous improvements in the WorkCover scheme and the dust diseases compensation scheme, as well as minor amendments to the Motor Vehicles (Third Party Insurance) Act 1942. The improvements in partial incapacity benefits contained in this bill are substantial and complement the major improvements in total incapacity benefits which were passed in December 1991 and took effect on 1st February this year. Following those earlier amendments, the Board of Directors of the WorkCover Authority undertook further extensive consultations on benefit provisions for partially incapacitated workers, particularly the retraining and rehabilitation aspects. Section 38 of the Workers Compensation Act applies to workers who are partially unfit as a result of work injuries and whose employers have not provided suitable employment. The section aims to encourage and assist those workers to rehabilitate themselves by giving them a special higher rate of weekly benefits - at present for a maximum period of 52 weeks - while they are engaged in job-seeking or approved training.

Structuring benefits to incorporate rehabilitation incentives is a key feature of comparable modern workers' compensation systems. These incentives in section 38 operate in combination with, first, existing requirements for employers to establish workplace rehabilitation programs and, second, the fact that an employer may be subject to additional insurance premium costs if he or she fails to rehabilitate injured employees. Measures such as these which are designed to assist injured workers to return to productive employment represent a pro-active and compassionate approach. The most significant improvement is extension of the maximum period of section 38 benefits from 52 weeks to 104 weeks. This recognises that, in many instances, partially unfit claimants suffer considerable periods of unemployment, despite job-seeking efforts. And they may require substantial retraining to obtain alternative employment. Accordingly, the extension of the maximum special benefit period is intended to increase the effectiveness of these entitlements as an initial safety net and to enable workers to complete suitable retraining courses.

In addition, the present version of section 38 has proven to be unnecessarily complex. In particular, the actual amount of weekly benefit under the section varies

depending on the kind of return-to-work activity being undertaken by the worker. The proposed section 38 also simplifies these benefits by making the same amount payable whether the worker is engaged in job-seeking, rehabilitation training or a mixture of both. The amendments also simplify or remove various provisions that have become

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unnecessary hurdles to establishing entitlement. For example, it is clarified that to qualify under section 38 a worker need not make an actual request for suitable employment from the employer if the worker's willingness to continue in such employment is demonstrated from the circumstances. It is intended that the complementary obligations placed by section 38 on workers, employers and insurers should not be applied in an over-technical way that detracts from the aim of productive steps towards rehabilitation. Where the special entitlements available to partially unfit workers under section 38 have been exhausted or are not applicable, section 40 of the Act provides make-up payments. For claimants who are unemployed, section 40 currently states that the weekly make-up benefit is based on a comparison of the worker's award-level pre-injury earnings and post-injury potential earnings. Enterprise agreement wage rates are also referred to where applicable.

In the recommendation of the Board of the WorkCover Authority - following detailed consultations - this provision is to be amended to overcome inconsistent interpretations and anomalies which can occur at present. The bill will improve current make-up provisions for unemployed claimants by requiring the payment - for the first 104 weeks - to be based on a comparison of the worker's gross level of pre-injury and post-injury earnings or earning capacity. After that 104-week period, section 40 benefits for those claimants will continue to be assessed by comparing the relevant award rates, with the proviso that additional improvements can be prescribed in this regard. The Government will examine any further recommendations of the WorkCover Board on this aspect in the light of future claims experience and cost considerations. Regarding the link between sections 38 and 40 of the Act, the bill aims to ensure that claimants first have proper access to the rehabilitation benefits under section 38. Insurers will be required - before carrying out assessments of workers' earning ability for the purposes of section 40 - to supply the claimant with information about section 38 entitlements.

Another important improvement in the bill concerns the lump sum benefits - payable in addition to weekly and other payments - provided for severe disfigurement caused by burns or other injuries. In those cases, the consequences suffered by workers and their families may be particularly tragic. The maximum lump sums for facial and bodily disfigurement are to be increased - from \$33,462 to \$102,960 and from \$28,314 to \$64,350 respectively. As with other maximum lump sums provided by the table of disabilities, the figures are indexed twice yearly. This will overcome a disproportion between lump sums presently available for these serious injuries and those payable for other permanent disabilities. The amendments will also result in increased access for these workers to the related lump sum entitlements for pain and suffering. Honourable members should note that these increases will automatically flow through to the special compensation scheme covering volunteer bush fire fighters.

Next, the bill will remove the 18-month limit for commencement of common law claims. This will avoid unnecessary court appearances - which must presently be made to seek the court's leave to commence a common law action after this time. This amendment has been made in recognition of the fact that sufficient time is needed for serious injuries to stabilise before a common law claim is lodged. The provision requiring the action to be commenced within three years will remain to ensure that actions are commenced promptly. The bill also includes a number of improvements to insurance licensing and related provisions. First, a holding company will be able to

apply for a single self-insurer's licence covering both its own employees and those of its wholly-owned subsidiaries - thus avoiding unnecessary duplication of accounting and claims administration. Second - to increase administrative efficiency in the WorkCover scheme - the bill will effect the amalgamation of insurer-managed statutory funds. Third, the proposed legislation rationalises arrangements for specialised insurers, revises provisions covering Government employers and contains other minor items.

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Finally, the bill also rectifies an anomaly highlighted in the recent Court of Appeal decision in *Nikolovsky v GIO*. That case concerned a claim for damages in circumstances where the employer was liable both under the Motor Vehicles (Third Party Insurance) Act 1942 and through a breach of duty of care owed by virtue of the employer-employee relationship. The interpretation of the Court of Appeal concerned amendments introduced to the latter Act in 1984. The effect of the decision is that claims may only be brought against the GIO. The proposed amendment will restore the situation whereby an action for common law damages may also be brought against the employer. The bill also includes a number of improvements to insurance licensing and related provisions. First, a holding company will be able to apply for a single self-insurer's licence covering its own employees and those of its wholly owned subsidiaries, thus avoiding unnecessary triplication of accounting and claims administration. Second, to increase administrative efficiency in the WorkCover scheme the bill will effect the amalgamation of insurer-managed statutory funds. Finally, the proposed legislation rationalises arrangements for specialised insurers, revises provisions covering Government employers, and contains other minor items. I commend the bill.

**Debate adjourned on motion by the Hon. K. J. Enderbury.**

#### **PRE-TRIAL DIVERSION OF OFFENDERS (AMENDMENT) BILL**

**Bill introduced and read a first time.**

#### **Second Reading**

**The Hon. J. P. HANNAFORD** (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [9.25]: Pursuant to sessional order, I move:

That this bill be now read a second time.

The Pre-Trial Diversion of Offenders Act 1985 was passed with bipartisan support in November 1985. It was one of the cognate bills that went forward with the Crimes (Child Assault) Amendment Bill, as a direct result of recommendations made by the New South Wales child sexual assault task force. This task force was established by the then Premier in July 1984, to examine the multi-faceted aspects of child sexual assault in New South Wales and to recommend policies and procedures to prevent or alleviate the incidence of such offences. Together the several pieces of legislation provided a comprehensive set of reforms relating to child sexual assault. The Pre-Trial Diversion of Offenders Act provides for a person who pleads guilty to an offence of child sexual assault to be diverted to a treatment program under certain circumstances. Currently, if the offender is accepted into the treatment program, no conviction is recorded against the offender.

The treatment program was developed by a working party of the New South

Wales Child Protection Council and was designed as a child protection program for the treatment of intrafamilial child sexual assault offenders and their families with the best interests of the child being of primary concern. The program provides treatment both to offenders and to members of the offender's family, with the ultimate aim of protecting the child involved and preventing further sexual assaults from occurring. As presently structured, the program requires the participation of family members as well as the offender. It is clear from the context in which the legislation was passed that it was not the intention of Parliament to decriminalise or devalue the seriousness of the relevant offences against children. At the same time as the Act was passed, penalties for many offences against children were increased.

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It was always intended that the program would only be available to a very limited class of offenders, where the prospect for treatment and the interests of the child outweighed the need for punishment of the offender. Although the Act was passed in 1985, the details of the clinical treatment program were not finalised until 1989. The legislation was finally proclaimed in May 1989. Certain difficulties and limitations with the Act have become evident over the first three years of the program's implementation and it is clear that the Act needs to state more clearly its objectives and provide clearer criteria for eligibility for participation in the program. This bill, therefore, incorporates a preamble to the Act which clearly states that the purpose of the Act is to provide for the protection of children and that the best interests of the child are to prevail over those of the offender. The bill further clarifies the Act by replacing the term "a special program" with the simpler expression "a program" which is to be defined as "the pre-trial diversion of offenders program" as approved by the relevant Ministers. It is also intended to make it clear that the treatment program is for intrafamilial child sexual assault offenders and requires the participation of family members.

In keeping with these proposals, the bill defines more clearly persons to whom the Act applies. As presently drafted the legislation is open to the criticism that, while it identifies certain persons to whom it is not to apply and indicates when it is to cease applying, it does not overtly say to whom it does apply. It is proposed that the Act will apply to persons who are charged with a child sexual assault offence, as defined in section 3, perpetrated by the offender on the offender's natural child, adopted child or child of the offender's de facto spouse. The position of director of the program is clarified and the nature of any powers and responsibilities attaching to that position are specified in this bill. For example, section 14(1) of the Act presently provides for assessment of an offender for eligibility to participate in the program. The bill specifies that it is the director or a delegated officer who is responsible for assessing an offender's suitability for participation in the program. Further, section 26(2) of the Act allows for the court to be informed when an offender fails to comply with an undertaking or any requirements imposed on the offender by or under the Act. However the section does not clarify who has responsibility for so notifying the court. The bill specifies that it is the director or a delegated officer who has this responsibility. The Act presently defines a child sexual assault offence in such a way that offenders charged under sections 78H, 78I, 78K or 78L of the Crimes Act 1900, which relate to homosexual offences, do not qualify for pre-trial diversion. There would appear to be no rationale for the creation of this distinction for participation in the program. By continuing to exclude such offenders, their young male victims are also excluded. It is therefore proposed to include offences under sections 78H, 78I, 78K and 78L of the Crimes Act in the definition of "child sexual assault offence" in section 3 of the Act.

Whilst the Act falls within the administrative responsibility of the Attorney



General, the treatment program is administered by the Department of Health, through the Western Sydney Area Health Service. Since the program's inception a board of management, comprising representatives of the Attorney General, the Minister for Health, the Minister for Community Services, the Minister for Police, the Child Protection Council and the Western Sydney Area Health Service, has been assigned a management role over the program. Counsellors and support staff employed on the program are employed by the Western Sydney Area Health Service. The board has no status under the Act. Section 33 of the Act currently provides only that the Attorney General, the Minister for Health and the Minister for Community Services shall make arrangements for the administration of the Act to be monitored. The bill clarifies that responsibility for the administration of the program lies with the Department of Health.

In keeping with the philosophy of the Act, the bill will amend the Act to allow

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the director, in determining whether a person referred for assessment is suitable for participation in the treatment program, to take into account certain information held by government and other agencies and statements made by the family members of the person referred. The factors which the director will be able to consider in assessing suitability of a person referred for participation in the program will include such things as the offender's acceptance of responsibility for the sexual abuse of the victim and an ability to demonstrate some understanding of the impact of his behaviour on the victim and other family members. Whether the spouse or de facto spouse of the offender is willing to participate as required by the director in the program will also be relevant. Also, participation in the program by the offender and his family must be in the best interests of the victim. As the assessment of the offender requires a clinical assessment of suitability, the director should be allowed a general discretion as to whether a person is suitable or not. The director will, however, be obliged to provide reasons for a negative assessment of an offender.

Since the passing of the legislation concern has been expressed by individuals working within the child care area and such bodies as the Child Protection Council that an offender directed to the treatment program does not have a criminal conviction recorded against him. The incentive to plead guilty is, therefore, quite strong, as an offender who is accepted in the program not only forgoes a possible prison sentence but also does not have a conviction recorded. The lack of a record of a criminal conviction presents certain difficulties with regard to the monitoring of offenders in subsequent employment. For example, the Department of Community Services has tightened the vetting procedures for applicants to own and manage child care facilities. However, without a conviction being recorded, an offender who has been diverted to the treatment program would not necessarily be identified under the procedures and could, in theory, obtain a licence to operate or employment in a child care facility. At the time the program was proposed, the level of awareness within the general community about the nature and extent of child sexual assault was low. There was little appreciation of the impact upon the child and other family members or how those concerned might effectively be assisted. The options available to the court were limited to imprisonment or a bond; guilty pleas were not common and conviction rates were low.

A pre-trial diversion program was seen as offering an incentive to plead guilty, which was in the best interest of the children as they would not have to appear in court and would thus be spared participation in an adversarial system which pitted the child's word against that of his or her parent. There has thankfully been considerable development in community awareness regarding the problem of child sexual abuse in recent years. Various measures, including mandatory notification of suspected offences,

changes to the Oaths Act, and the opportunities for children to give evidence on closed circuit television, have all contributed to improved services to the child and greater opportunity for the child to be heard properly in court. In the light of those changes it is doubtful that the non-recording of a criminal conviction as an inducement to plead guilty continues to be warranted. The bill, therefore, will amend section 24 of the Act to provide that after an offender has pleaded guilty and has been assessed as suitable for participation in the treatment program a conviction will be recorded.

I am aware of civil libertarian concerns that, theoretically, an innocent accused may be induced to plead guilty and to seek acceptance in the program so as to avoid the matter going to trial and to spare the child from having to give evidence. In such circumstances an accused may enter a guilty plea on the basis of being accepted into the program. If a conviction is, therefore, recorded against such a person who subsequently is found to be ineligible for participation in the program or is excluded because the

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program is full, the innocent accused is disadvantaged. It is, therefore, proposed that a conviction will not be recorded until such time as the accused has been assessed and accepted for participation in the program, failing which the alleged offender will have the opportunity to reaffirm his guilty plea or to alter the plea to not guilty. The treatment program is designed to accommodate a maximum of 25 offenders and their families, totalling approximately 120 to 150 people when the program is fully staffed and resourced.

The legislation as drafted, however, does not permit the court, the Director of Public Prosecutions or the director of the treatment program to reject a referral on the basis that the program is full. The bill, therefore, will amend the legislation to permit the availability of places on the treatment program to be taken into account by the prosecutor when determining whether to refer an offender for assessment for participation in the program. The proposed amendments provided for in this bill do not represent a departure from the original objectives of the Legislature. They are, rather, the result of the fact that the Act was an attempt to address a complex social issue by creating an innovative program. Now, with the benefit of experience in implementing the Act, it is clear that certain administrative aspects of the Act need further clarification and that the recording of a conviction against an offender is warranted. I commend the bill to the House.

**Debate adjourned on motion by the Hon. R. D. Dyer.**

## **FINANCIAL TRANSACTION REPORTS BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**The Hon. J. P. HANNAFORD** (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [9.38]: Pursuant to sessional order, I move:

That this bill be now read a second time.

The bill complements the Commonwealth Financial Transaction Reports Act 1988. The Commonwealth Act assists in the enforcement of taxation and other Commonwealth laws and makes information collected for Commonwealth purposes available for State law enforcement agencies. It does not, however, enable the State agencies to obtain further

information from cash dealers which would assist in the investigation of State offences. The object of this bill is to fill that gap. The bill is based on model legislation prepared on the instructions of the Standing Committee of Attorneys-General. It is drafted to complement the Commonwealth Act which requires a cash dealer - for example, a financial institution such as a bank - to report to the cash transaction reports agency, now known as AUSTRAC, when the cash dealer has reasonable grounds to suspect that a transaction to which the cash dealer is a party may be relevant to the investigation of an evasion of a taxation law or an offence against a law of the Commonwealth or may be of assistance in the enforcement of the Commonwealth Proceeds of Crime Act 1987.

Under the Commonwealth Act, if the cash dealer reports to the director of AUSTRAC, the cash dealer is also required if requested to do so by the director, an investigating officer or a relevant authority to provide further information specified in the request. The Commonwealth Act does not, however, enable New South Wales police or

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other relevant New South Wales authorities to obtain further information from cash dealers which would assist in the investigation of State offences. The object of this bill is to enable New South Wales police, the chairperson of the New South Wales Crime Commission or the Commissioner for the Independent Commission Against Corruption to obtain further information from cash dealers about suspect cash transactions so as to assist in the investigation of offences against the laws of this State, in the enforcement of the Confiscation of Proceeds of Crime Act 1989 and the Drug Trafficking (Civil Proceedings) Act 1990 or in the administration of the Independent Commission Against Corruption Act 1988.

The inclusion of the chairperson of the New South Wales Crime Commission and the Commissioner for the ICAC is consistent with their inclusion in the Commonwealth Act whereby the director of AUSTRAC is empowered to disseminate information to them, although presently restricted by a nexus to Commonwealth offences. Equally importantly, protection is given to cash dealers against legal action in relation to providing the information. The Australian Bankers Association supports the legislation. It has requested a co-ordinated commencement date be adopted. To this end agreement has been reached with Victoria, which has introduced but not yet commenced the model legislation, and the Commonwealth to commence the legislation on 6th December, 1992, the proclaimed commencement date for amendments to the Commonwealth Act. Other States are working towards introducing the model bill in their current parliamentary sessions and have also been requested to comply with the 6th December commencement date so far as is possible.

I will now address the major provisions of the bill. Clause 4 defines the "Commonwealth Act" as the Financial Transaction Reports Act 1988 of the Commonwealth. Expressions used in the Commonwealth Act, such as "cash dealer" and "cash transaction", have the same respective meanings in the proposed Act. Examples of a cash dealer, as defined in the Commonwealth Act, are a financial institution - for example, a bank - a financial corporation within the meaning of paragraph 51(xx) of the Commonwealth Constitution, an insurer, a securities dealer, a trustee or manager of a unit trust and a person who carries on the business of operating a casino. A cash transaction is defined as a transaction involving the physical transfer of currency from one person to another. Clause 5 provides that the proposed Act binds the Crown.

Clause 6 provides that if a cash dealer communicates information to the director of the Australian Transaction Reports and Analysis Centre, known as AUSTRAC, under the Commonwealth Act about a suspect cash transaction, the cash dealer must - if requested to do so by the New South Wales Commissioner of Police, the chairperson of

the New South Wales Crime Commission, the Commissioner for the ICAC or a police officer - give such further information as is specified in the request. The further information is to be such information that may be relevant to the investigation of, or prosecution of a person for, a State offence or that may assist in the enforcement of the Confiscation of Proceeds of Crime Act 1989 or the Drug Trafficking (Civil Proceedings) Act 1990 or in the administration of the Independent Commission Against Corruption Act 1988.

Clause 7 provides that a cash dealer who is a party to a transaction and has reasonable grounds to suspect that information concerning the transaction may be relevant to the investigation of, or prosecution of a person for, a State offence or may be of assistance in the enforcement of the Confiscation of Proceeds of Crime Act 1989 or the Drug Trafficking (Civil Proceedings) Act 1990 or in the administration of the Independent Commission Against Corruption Act 1988 must prepare a report on the transaction and

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communicate the information contained in it to the director. This requirement applies whether or not the cash dealer is required to report the transaction under division 1, cash transaction reports, of part II of the Commonwealth Act, but applies only if the cash dealer is not already required to report the transaction under division 2, reports of suspect transactions, of that part. The requirements of proposed section 7 are similar to those contained in section 16 of the Commonwealth Act.

Clause 8 provides that cash dealers and their staff are protected against legal action in relation to providing information about suspect cash transactions. Clause 9 prohibits a person when giving information under the proposed Act from making a false or misleading statement. The maximum penalty for contravening this prohibition is a fine of \$100,000 or imprisonment for five years or both. Clause 10 prohibits the Commissioner of Police, the chairperson of the New South Wales Crime Commission, or a member of the staff of that commission, the Commissioner for the ICAC, or an officer of the ICAC, or a police officer from making a record of information obtained under the Act or divulging it to another person except in the performance of duties relating to the enforcement of the laws of the State, the Commonwealth or of another State or Territory. The maximum penalty for contravening this prohibition is a fine of \$40,000 or imprisonment for two years or both. Clause 11 provides that proceedings for offences against the proposed Act are to be dealt with on indictment. Certain offences may, however, be dealt with summarily before a local court if it is proposed by the prosecution and the court is satisfied that it is appropriate to do so. Clause 12 requires the Minister to carry out a review of the proposed Act after five years to determine whether its policy objectives remain valid. I commend the bill to the House as an enactment which will be a valuable law enforcement tool in this State.

**Debate adjourned on motion by the Hon. R. D. Dyer.**

**CRIMES (REGISTRATION OF INTERSTATE RESTRAINT ORDERS)  
AMENDMENT BILL**

**Bill introduced and read a first time.**

**Second Reading**

**The Hon. J. P. HANNAFORD** (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [9.46]: Pursuant to sessional order, I move:

That this bill be now read a second time.

The bill before the House forms part of an important national initiative of the Standing Committee of Attorneys-General aimed to provide national protection to victims of domestic violence and personal violence. It inserts a specific new division into part 15A of the New South Wales Crimes Act 1900 which allows for the portability into New South Wales of interstate apprehended violence orders made in other Australian States. The present law does not provide for continuity of protection to victims who move, or flee, interstate. Any order which has already been made for their protection in their own State cannot now be enforced in any other State. Fresh orders must be taken out in the new State which may merely serve to inform the person against whom the order is made of the victim's present whereabouts. This may well defeat the very purpose of their exit from their own State.

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This important shortcoming in the present law was recognised by the Standing Committee of Attorneys-General as requiring urgent redress. At a meeting of my fellow Attorneys-General last year, Ministers agreed that all States and Territories should legislate to provide for reciprocal recognition of orders made in each Australian jurisdiction. The present bill is part of this national initiative. All other Australian States have introduced, or are about to introduce, similar legislation providing for the portability of interstate restraint orders. The basis of the national scheme is to provide for the registration and enforceability of interstate orders in the State to which the protected person has now moved. Under the proposed bill, upon application by the victim or someone on his or her behalf, the clerk of the Local Court or Children's Court must register the interstate order or, where it contains an order which could not have been made in New South Wales, refer it to a magistrate for modification or adaptation.

This procedure will ensure that the order accords with New South Wales law and can thereby operate validly in New South Wales. Because of the width of orders which can presently be made under New South Wales law, it is envisaged that adaptations or modifications will in practice be of a minor nature. An example of where an order would need to be varied would be where the interstate order specifies a period of operation. Where some of the period has already run in the home State, the magistrate would need to adapt the order to reflect the remainder of its life in New South Wales. A further example might be where it refers to a specific place of residence or place of employment of the victim in another State to which the defendant is prohibited or restricted from attending. For the order to be valid in New South Wales the magistrate would need to adapt the order to specify the New South Wales equivalent place of residence or employment of the victim. The adapted or modified order must then be registered by the clerk who must thereafter provide the Commissioner of Police with a copy of the registered order. However, as an important protective mechanism the person against whom the order is made is not to be notified of the registration unless the protected person consents to such notification. This procedure should serve to ensure that the present whereabouts of the protected person is not transmitted to the defendant unless agreed to by the victim.

Upon registration, the interstate order has the same effect, and can be enforced in New South Wales as if it were an apprehended violence order made under the present part 15A of the Crimes Act 1900. Any breach of an order will therefore be dealt with as if it were a breach of New South Wales law. An application can later be made to vary or revoke the registered order and will be subject to the same procedure as with any other

order made in New South Wales which is later sought to be varied or revoked. To avoid any potential conflict with the operation of the order in New South Wales, any variation or revocation made in the origin State will not have effect in New South Wales. In conclusion, the proposed legislation before the House recognises that the problem of domestic and personal violence must be treated as a national problem requiring a uniform response. The adoption of reciprocal portability provisions throughout Australia provides an important national initiative in the protection of the rights of victims or potential victims of domestic and personal violence. The current bill provides essential continuity of protection to persons entering New South Wales in possession of apprehended violence orders from their original State. I commend the bill to the House.

**Debate adjourned on motion by the Hon. B. H. Vaughan.**

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**SUPERANNUATION LEGISLATION (MISCELLANEOUS AMENDMENTS)  
BILL**

**Bill introduced and read a first time.**

**Second Reading**

**The Hon. J. P. HANNAFORD** (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [9.51]: Pursuant to sessional order, I move:

That this bill be now read a second time.

The bill will effect a number of administrative changes to the closed public sector superannuation schemes. It is the Government's intention that the superannuation legislation reflect settled government policy on significant areas touching on superannuation. It is also intended that the superannuation legislation state the scheme rules clearly and precisely to allow maximum fairness and efficiency in the administration of the schemes. Towards those ends the bill will insert in the various superannuation Acts provisions to bring the legislation in line with existing government policy on privatisation and to reflect in the schemes major changes which have occurred in the public sector in the area of enterprise agreements. Provision will also be made in the bill to remedy a deficiency in current legislation governing superannuable salary applicable to senior executive service appointees. Finally, a number of other minor changes will be made to schemes to ensure that the governing rules are operating fairly and efficiently.

Honourable members will be aware of the large number of changes to superannuation legislation which have occurred over recent years. The complex and technical nature of the legislation is such that it is necessary that changing compliance requirements and policies in the field of superannuation be reflected in the governing rules of the public sector schemes. As members are aware, it is proposed that as part of the arrangements for the new public sector scheme, First State Superannuation, much of the legislative burden of the generally machinery amendments will be removed by the use of an innovative series of provisions enabling the trustee board to make rules for that purpose. Such rules would be subject to disallowance by the Minister. This process is aimed at enabling the trustee board to react quickly and effectively to the constantly changing regulatory and competitive environment in which the public sector superannuation schemes now operate. The Government will observe closely whether

that approach is effective in reducing the pressure on the Parliament for constant change and in improving responsiveness in meeting the need for change in the new scheme. However, for the present, in the older closed schemes it is still necessary to amend the legislation to effect changes of an administrative and technical nature.

As outlined, four main sets of amendments are proposed. They deal with the superannuation implications of privatisation and enterprise agreements, superannuable salary for SES appointees and a series of minor miscellaneous amendments. I turn first to amendments related to the Government's privatisation policy. The Government's settled policy in the case of privatisation has been that it is inappropriate for public sector superannuation coverage to continue once an employer has become part of the private sector. The reasons for that are that the Government should not be seen to be underwriting benefits for persons who are not its employees. Furthermore, it was considered inappropriate for the Government to be seen to be providing superannuation coverage in its own employee schemes for new private sector employers which were, as a matter of policy, being given the flexibility by privatisation to determine their own destiny on the full range of industrial issues and employment conditions.

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Accordingly, in a number of privatisations which have occurred to date, public sector superannuation coverage has ceased and instead the new employer has stepped in to provide coverage for the benefit of employees. The accrued public sector benefits of employees have been protected by enabling preservation of benefits. If desired, the employee can then transfer those accrued benefits to a fund established by the new employer. To date, that process has been achieved either by the enabling legislation for the privatisation or by regulation under the superannuation Acts, or by a combination of both. To avoid the haphazard nature of that process, the proposed amendments in the bill will set down clearly what will happen to superannuation arrangements in the case of privatisation. The provisions will be triggered by certification by the Minister responsible for superannuation that the initiative falls within the general privatisation policy, and so is appropriate for the application of the provisions. The necessary steps will then be taken to remove the employer from coverage of the relevant scheme and to preserve employee benefits under the existing provisions of the scheme.

The amendments remove an important area of doubt which has beset privatisation exercises. There will be no cash benefit available to employees in the superannuation scheme arising from the simple process of transfer. It is also intended the proposed amendments allow for the determination of any outstanding surplus or liability in the superannuation schemes in respect of the former government agency. The board will determine that on actuarial advice and upon consultation with the Treasury in each case. The surplus or liability will then be transferred to the Crown and will be a factor in the sale of the enterprise. Any surplus amount in respect of the employer will be an asset of the Crown. The Acts to be amended for the purpose of providing for privatisation are: the State Authorities Non-Contributory Superannuation Act 1987; the State Authorities Superannuation Act 1987; and the Superannuation Act 1916.

The second important area of amendment in the bill arises from the introduction of enterprise agreements into public sector employment. The broader concept of remuneration contained in these agreements is inconsistent with the definition of salary currently recognised for contribution and benefit purposes within the superannuation Acts. The existing definition of salary used consistently throughout the various superannuation Acts is essentially limited to monetary remuneration, including particular shift and other allowances. It is intended to extend the definition of salary to include the

cost of certain approved employment benefits which may now be taken by salary sacrifice as part of an employee's remuneration under enterprise agreements. This will ensure that, where an employee's monetary salary falls as a result of the receipt of a benefit instead of cash - that is, where salary sacrifice arrangements apply - those employees are not disadvantaged by having a lower cash salary amount used for superannuation purposes. The benefits which will be available to be superannuated will be restricted to those approved by the Minister with the concurrence of the Treasurer.

As part of the process of enterprise negotiation and approval, the method of setting the cost of any employment benefit will also be determined. That process will be entirely analogous with what is now done in respect of the remuneration packages for the senior executive service. Essentially, inclusion of employment benefits will be determined by the general principles governing enterprise agreements and the flexibility which employees and agencies have to negotiate within the agreements. Similarly, any cost implications of allowing certain benefits to be treated as superannuable will be determined at the enterprise level and the costs will constitute part of the agency's overall negotiation on employee remuneration. The Acts affected by the amendments are: the Police Regulation (Superannuation) Act 1906; the State Authorities Non-Contributory Superannuation Act 1987; the State Authorities Superannuation Act 1987; and the

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Superannuation Act 1916. I turn now to the third area of the bill. The amendments will remedy certain deficiencies in existing provisions governing the salary which can be superannuated by senior executive service appointees. Provisions for that purpose are to be found in the Police Association Superannuation Employees (Superannuation) Act 1969; the Police Regulation (Superannuation) Act 1906; the State Authorities Non-Contributory Superannuation Act 1987; the State Authorities Superannuation Act 1987; and the Superannuation Act 1916. Those Acts will all be amended for that purpose.

The nature of the total remuneration package for senior executive service officers permits those officers within public sector schemes to nominate a salary to be used for superannuation purposes if an amount greater than cash salary is desired to be superannuated. Thus salary for superannuation is defined as cash remuneration plus, if desired, a proportion of the cost of the non-cash employment benefits which a senior executive may have included in the package. In all schemes final benefits are related in varying ways to this nominated salary. Employee contributions, as well as employer contributions, or employer oncosts, are also determined according to this nominated salary and are met from the total remuneration package. An important principle underlying the provision of these flexible arrangements is that senior executive service appointees as part of the package are required to fund their chosen level of benefit through the employer oncost amount.

Clearly it can be seen that the superannuable salary nominated by the executive plays an important role in linking funding and benefit levels for senior executive service officers. Currently the legislation for each scheme contains certain controls and limitations on superannuable salary to ensure that this link is maintained. An important control is to prevent increases in nominations, apart from the initial one, that outstrip the increases in the package as a whole. That is, if the package increases on 1st July by 10 per cent, that is the limit on the percentage by which the nominated salary for superannuation can be increased. However, existing provisions have been found to be deficient and it is proposed to remedy this in the bill. The deficiency arises because of the automatic inclusion in superannuable salary of the cash component of the total remuneration package. This opens up the possibility of executives paying low superannuation contributions and low employer oncost amounts throughout their career



by not making any nomination or by making a very low nomination of superannuable salary. That is, they do not include any of the cost of employment benefits in their superannuable salary or include only a very small part of that cost. At, or close to, retirement they rearrange their total remuneration package by converting employment benefits to cash. Superannuable salary could then be increased significantly because of its automatic coverage of cash salary. The superannuation benefit which then emerges is based on this later, higher salary amount, whilst funding towards this benefit has been based on the earlier, substantially lower amount. The link between funding and benefits has therefore been broken.

A simple numeric example demonstrates what is basically a rort, when it is borne in mind that executives can take up to half the package in employment benefits. Say the package for "A" is \$100,000 per annum. The same package is paid to "B". The superannuation oncost is, say, 20 per cent. Both take 50 per cent employment benefits. "A" makes no nomination; "B" nominates the maximum superannuable salary of \$83,333 and pays the oncost of \$16,667 each year, plus personal contributions on that nominated figure. "A" pays an oncost of \$10,000 each year. Just before retirement "A" abandons all employment benefits - because cash is automatically superannuable, salary for benefit leaps to the same level as "B", and "A" gets the same or very nearly the same benefit as "B" without having paid anything like the same contributions and oncost. Who then pays? Because of the costing and reserve structures of the schemes the employer pays the shortfall for "A".

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This problem will be remedied by extending existing controls on nomination of superannuable salary to cover cash as well as employment benefits. A total superannuable salary amount will be nominated and this amount will only be able to be increased in proportion to any increase in the overall total remuneration package. This will ensure that the principle of senior executive service officers meeting the cost of their superannuation benefits from their packages is maintained. Amendments to the Public Sector Management Act 1988, Police Service Act 1990 and Statutory and Other Offices Remuneration Act 1975 make provision of superannuation coverage for senior executive service appointees part of remuneration packages for such appointees as a benefit of employment, notwithstanding that there is no contract of employment in place. The purpose of these amendments is to ensure that superannuation contributions at least equal to the Commonwealth's superannuation guarantee charge are part of the remuneration package of senior executive service appointees.

The proposed amendments are made effective from 1st July, 1992, the date of effect of the superannuation guarantee charge legislation. Without the proposed legislative amendments employers would be compelled to meet the superannuation guarantee charge for those employees who are senior executive service appointees where no contract has been put in place, and who have not taken superannuation cover. Starting at 4 per cent of earnings, the cost of providing this would rise to 9 per cent of earnings by 2002. The provision of superannuation as an add-on to senior executive service remuneration packages was never contemplated by the Government in 1988. It was always the intent that the provision of the employer oncost for superannuation was to be made from remuneration packages. This was made clear and was very well understood at the time of implementing the senior executive service in 1988. The Commonwealth has now made superannuation coverage compulsory, and it is a result of its policy that an element of the flexibility of remuneration packaging for the senior executive service must be removed.

The final section of this bill is a group of miscellaneous administrative amendments to the various superannuation Acts. These amendments cover a range of matters and generally are intended to clarify or extend existing provisions in the legislation. Briefly, common amendments will be made in two areas to the various Acts. These will extend Commonwealth regulatory requirements to provide for optional crystallisation and payment of benefits at age 65 for certain transitional members. Second, amendments to protect the board from fraudulent claimants will be inserted into the various Acts. These latter provisions will restrict payments made in cash or by open cheque, and so ensure the board's obligations in paying benefits are properly met. Minor amendments will be made to the State Authorities Superannuation Act to regularise the consideration and revocation by the board of additional death and invalidity benefit cover approval. An existing limitation on preservation for members over the early retirement age in the State Authorities Superannuation Scheme will be removed. This will enable all members, regardless of age, to have a preservation option in the event of resignation, dismissal or discharge.

Finally, individual amendments will be made to particular Acts. These amendments will clarify provisions dealing with interest and arrears on deferred State superannuation fund benefits and the treatment of salary in the basic benefit scheme; allow for preserved benefits in the public sector executives superannuation scheme to be rolled over into an approved deposit fund; and extend the delegation power in the Superannuation Administration Act 1991 to allow the managing director of the State Superannuation Investment and Management Corporation to delegate functions in a similar fashion to the board. The amendments which I have outlined here today will have

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little cost impact. The redefinition of senior executive service salary will in fact result in significant savings by closing off a source of potentially large windfall benefits. As I outlined earlier, costs flowing from changes to salary for enterprise agreements will be controlled and monitored at both Treasury and enterprise level as part of overall agency remuneration costs. The other amendments I have outlined will have a negligible effect on costs and in some cases will bring about savings through a more efficient administration of the schemes. This bill will improve the capacity of the public sector superannuation schemes to cope with at least two areas of major development in government policy - in the areas of rationalisation by privatisation and by enterprise bargaining. The bill will also make amendments to provide for clearer and more efficient operation of the schemes. These changes reflect the Government's intention that the schemes be responsive to the changing superannuation and industrial relations environment in which they now operate. I commend the bill to the House.

**Debate adjourned on motion by the Hon. I. M. Macdonald.**

## **LEGAL AID COMMISSION (AMENDMENT) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**The Hon. J. P. HANNAFORD** (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [10.11]: Pursuant to sessional order, I move:

That this bill be now read a second time.

The purpose of this bill is to amend the Legal Aid Commission Act 1979 to remove the requirement that the chief executive officer of the Legal Aid Commission be a practising solicitor, to change the title of the chief executive officer of the commission from "director" to "managing director" of the Legal Aid Commission, and for other purposes. In October this year Mr Ken Robson, former Auditor-General, and Mr Stephen O'Connor, Solicitor for Public Prosecutions, were appointed to conduct a review of the operations of the Legal Aid Commission of New South Wales. The objects of the review are to review the overall structure of the commission and its internal management with a view to improving the efficiency and effectiveness of the commission and to ascertain the financial position of the commission, in particular the quantum of liabilities incurred in relation to the legal aid provided as well as the financing of the commission from government and other sources. Mr Robson and Mr O'Connor have provided me with certain interim advice, which includes one matter requiring an urgent amendment to the Legal Aid Commission Act. This urgent amendment relates to section 14 of the Act which, at the moment, enables me to appoint a person who is a solicitor of the Supreme Court and who holds a current practising certificate to be the director of the commission.

Mr Robson and Mr O'Connor have advised that to reflect the principal role of the position of chief executive officer of the commission and its status within the organisation the title should now be managing director and the possession of legal qualifications should not be an essential requirement for the position. Of much more importance to this position as managing director are the essential requirements that the person should have a proven history in management and finance. Of course, it may be that a managing director with proven experience in management and finance may also possess legal qualifications and be a practising solicitor or barrister. The amendments  
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to be made to the Act will not preclude this possibility; rather, they will not disqualify from applying for the position of managing director persons with a proven history in management and finance but who do not possess legal qualifications. It has also been necessary to make some consequential amendments to the legislation to allow for the possibility that the managing director may not be a solicitor with a practising certificate. The only matters of significance are the amendments to sections 23A, 24, 28 and 64A.

The new section 23A provides that if the managing director does not hold a current practising certificate, he or she is to appoint a person to exercise the functions of the managing director under sections 24, 28 and 64A of the Act. Such a person must be a member of the staff of the commission, be a solicitor of appropriate seniority and experience and hold a current practising certificate. Section 24 is concerned with the exercise of the functions of a solicitor by the managing director; section 28 is concerned with the position of the managing director being solicitor on the record in proceedings; and section 64A is concerned with the managing director's administration of the commission's trust account. As explained, section 23A will allow a senior staff member of the commission to be appointed by the managing director to act in place of the managing director if that person does not have a practising certificate. I am pleased to advise all honourable members that this bill has the support of the Federal Minister responsible for legal aid matters, Senator Michael Tate, Minister for Justice and Minister Assisting the Minister for Immigration, Local Government and Ethnic Affairs. I commend the bill to the House.

**Debate adjourned on motion by the Hon. B. H. Vaughan.**

**ENVIRONMENTAL PLANNING AND ASSESSMENT (CONTRIBUTIONS  
PLANS) AMENDMENT BILL**

## Second Reading

### Debate resumed from 17th November.

**The Hon. DELCIA KITE** [10.14]: The introduction of legislation by the Wran Government in 1979 to ensure that local ratepayers did not bear the burden of the cost of providing public services and amenities as a result of development is a tribute to people like Jack Munday and Professor Pat Troy, who worked closely with the Wran Government. The land co-ordination unit set up in 1979 by the then Deputy Premier and Minister for Public Works, Jack Ferguson, ensured that government instrumentalities set out the criteria for infrastructure and government services to precede, for the first time, the development of new estates. This critical change in government policy is enshrined in section 94 of the Environmental Planning and Assessment Act 1979. It is with a great deal of regret that I note in the Minister's explanatory comments that the Simpson report on the commission of inquiry into the operations and practices associated with contributions under section 94 revealed that some councils - not controlled by Labor councillors, I might add - have not acted responsibly in recording and monitoring section 94 contributions by developers.

Enlightened councils have, in fact, already adopted the sorts of contribution plans as proposed by this bill, and have been totally accountable for the manner in which funds have been managed. In the case of very large developments which may be subject to delays or challenges in the Land and Environment Court, particular problems have occurred which may not be within a growth centre but could be classified as a designated area. I am concerned that the Minister or director must have regard to any relevant

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contributions plan, but are not bound by such plans. I wholeheartedly agree that any money received as a consequence of any such condition must be used within a reasonable time for the purpose for which it is levied. However, I would be pleased to hear from the Minister in his reply as to what circumstances would apply to invoke his powers under Section 94AA (5) in relation to which he may impose a condition referred to in section 94, even though it is not of a kind allowed by, or in accordance with, a contribution plan, particularly as section 94AB (3) states that "a council must not approve a contributions plan that is inconsistent with any direction given to it under section 94A". The major objective of the bill - to obtain accountability, both public and financial, of local councils - cannot be argued. However, in redefining councils' powers it is essential that local community interests are not overruled by any large overseas or local development lobby seeking ministerial intervention to avoid the contributions considered relevant by that community under Section 94AB. On the understanding that the Minister can adequately address these concerns, the Opposition supports the bill.

**The Hon. R. S. L. JONES** [10.18]: The Australian Democrats support this legislation, which will allow councils an additional six months to organise their plans for their section 94 works. This is brief and straightforward legislation. I remind honourable members once again of the extremely high cost involved in providing services for land subdivided by developers - up to \$70,000 a block in unrecoverable costs, especially in the Sydney region. It would be advantageous if some of that cost, which the community has to incur over a period of time, were recovered at the time the blocks were subdivided and sold. I hope that these plans will regularise the purposes for which section 94 contributions are collected, and will be collected appropriately, and that they will not be put into general revenue, as has happened previously, apparently. The Australia Democrats support the bill.

**The Hon. R. J. WEBSTER** (Minister for Planning, and Minister for Housing)

[10.19], in reply: I appreciate the comments made by the Hon. Delcia Kite. However, I wish to clarify a couple of matters to which she referred. The Minister is not able to make a contribution where the Minister has consent authority, which is the case in some instances such as the city west project. The Minister will determine the level of that part of the contribution plan determined by council and pass it on to the council. There is not a problem there. I thank the Hon. R. S. L. Jones for his comments. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## **MEAT INDUSTRY (GAME MEAT) AMENDMENT BILL**

### **Second Reading**

**The Hon. R. J. WEBSTER** (Minister for Planning, and Minister for Housing)  
[10.21]: I move:

That this bill be now read a second time.

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

**Leave not granted.**

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**The Hon. R. J. WEBSTER:** The Meat Industry (Game Meat) Amendment Bill provides regulatory control over the transportation and processing of kangaroo meat for human consumption as game meat. Subject to these controls, kangaroo game meat will be available for sale through retail meat outlets. The bill will establish a system of licensing of shooters' vehicles, game meat vans and game meat processing plants and premises. The New South Wales meat industry authority will issue the licences and carry out inspections to ensure compliance with hygiene and construction standards. On 6th January, 1989, the Minister for Health and the Minister for Agriculture and Rural Affairs jointly announced that kangaroo meat would be available for human consumption in New South Wales. There has been extensive consultation between New South Wales Agriculture, the New South Wales Meat Industry Authority, the National Parks and Wildlife Service, the Department of Health and the Commonwealth Department of Primary Industries and Energy.

Kangaroo meat provides a good quality, lean, polyunsaturated red meat. It is considered highly desirable by many consumers and nutritionists, especially for cholesterol reducing diets. It is high in protein but extremely low in fat. Kangaroo meat has been legally available for years for consumption in retail butcher shops in South Australia, Tasmania and overseas. The Commonwealth Department of Primary Industries and Energy will carry out meat inspections at game meat processing plants. Game meat standards to be adopted in New South Wales will comply with export requirements. At the retail meat level, kangaroo meat will be subject to the provisions of the Food Act, which is administered by the Department of Health. Kangaroo meat will be hygienically packed in sealed plastic bags and clearly labelled. A technical and further education course on meat hygiene for kangaroo meat shooters and processors has been prepared. A code of practice for game meat harvesting and processing is being developed and will apply to all shooters and processors in New South Wales. The

National Parks and Wildlife Service kangaroo management program will oversee the kangaroo cull.

Last year the Commonwealth Minister for the Arts, Sport, the Environment, Tourism and Territories, Ms Ros Kelly, announced the commercial kangaroo harvesting quota for 1991, which was an increase of 28.6 per cent on the 1990 harvest quota for New South Wales. Ms Kelly stated, "The quotas have been increased to provide sufficient control of agricultural and pastoral damage in the face of rising kangaroo populations". In New South Wales this increase in kangaroo populations was due to the sustained above average rainfall. The need to cull has been accepted on a bipartisan basis by all States and the Commonwealth. Quotas are based primarily on population estimates derived from aerial and ground surveys and conducted by wildlife scientists working for, or under contract to, the Australian National Parks and Wildlife Service and State kangaroo management authorities. The quota is set with the dual aim of maintaining red and grey kangaroo populations over their known range and minimising their harmful effects on agricultural production. The present bill does not increase the quota, but it enables the efficient use of kangaroos as a valuable renewable resource. Recognition of kangaroo meat as a valuable product will ensure the proper retention of kangaroo populations. At present in New South Wales processing caters for a small export market and for pet food. A valuable resource is generally left in the field. This bill will ensure a more economic and beneficial use of kangaroo meat as a resource and as a food. New South Wales consumers will have the freedom of choice of kangaroo meat as an alternative healthy, nutritious red meat. I commend the bill to the House.

**The Hon. B. H. VAUGHAN** (Deputy Leader of the Opposition) [10.25]: The parliamentary Labor Party opposes this bill.

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**The PRESIDENT:** Order! The Deputy Leader of the Opposition has the call.

**The Hon. B. H. VAUGHAN:** A bill of the same nature as the Meat Industry (Game Meat) Amendment Bill has been introduced into this House before, and I remind all honourable members that it was voted out of the House at the first reading stage. Indeed, when it was voted out Government members did not protest with any real conviction, which leads one to ask the inevitable question: why is the Government trying again? I leave that to the Government to answer. It is vital to recognise that kangaroos cannot be mustered, yarded or drenched. The bill's introduction, as the second reading speech of the Minister for Planning and Minister for Housing attests, smells of deceit. Common understanding would have it that this bill is for the purpose of legalising the consumption of kangaroo meat. However, the bill, on a literal reading, allows for the consumption of a wider range of game meat. The bill will allow the consumption of broilgas, koala bears and dingoes - and who would want to eat a dingo? The bill, if restricted to the consumption of kangaroo meat, fails to ensure proper hygiene standards in the killing and storing of such meat. It is absolutely important from a hygienic point of view that anything killed be put in a freezer within four hours. That certainly cannot happen in the southwest of Queensland, where I have had considerable experience. The bill fails to provide for adequate transportation of such meat. The Government has failed to resolve the fundamental question of who owns the kangaroos and the other game animals which the bill may incorporate. This is fundamental in so far as to whom the profit goes from the sale of such meat. If there is no definable owner, then the killing and sale of meat could be regarded as theft. The most important thing is disease. Anyone who has seen the paunch of a kangaroo, with those millions and millions of worms, will know what I am talking about. For this reason and others, the parliamentary

Labor Party opposes the bill.

**The Hon. L. D. W. COLEMAN** [10.28]: I support the Meat Industry (Game Meat) Amendment Bill. The provision of kangaroo meat for human consumption will not result in the killing of any more kangaroos than are already being culled. It will actually help to stop indiscriminate killing of kangaroos, making them more valuable. I well remember when rabbits were bad and my father put threepence a head on them.

**The Hon. J. R. Johnson:** They are still bad.

**The Hon. L. D. W. COLEMAN:** I well remember the days of the rabbit skin bounty, which served in effect to perpetuate the rabbit trade because skins had a value. Kangaroo culling is controlled by the National Parks and Wildlife Service according to quotas set by the Federal Government. Quotas are set with the dual aims of maintaining kangaroo populations and controlling their harmful effects on agricultural production. If the Hon. R. S. L. Jones bothered to visit the Far West of this State he would see the damage being done by kangaroos and would know what I am talking about. He, unlike most of the Government members, has not been out there.

**The Hon. J. R. Johnson:** That is right: most of the Government members have not been out there lately. Let the record show that.

**The Hon. L. D. W. COLEMAN:** Opposition members have not been out there, like most Government members. Kangaroo numbers have increased in number to the point that they are often found beside the highway south to Moss Vale and are presenting a danger to passing traffic.

**The Hon. I. M. Macdonald:** For 20 years there have been road signs saying "Kangaroos next 20 kilometres".

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**The Hon. L. D. W. COLEMAN:** But they were not found dead on the highways in the numbers seen today. On recent figures, the red kangaroo population is estimated at nine million, with a total quota of two million - a big increase of 38 per cent on last year. Since 1988, the kangaroo population has doubled, due in part to the effects of drought. Any bushman knows it is impossible to count kangaroos accurately and that there are many more kangaroos than those actually counted. Currently kangaroo meat is either left to rot in the paddock or is used for pet food. Students of the Bible well know that it is against Christian teaching to waste resources. I am always appalled at the sheer waste of kangaroo meat and skins caused by do-gooders who think they are preserving the kangaroo by impractical and archaic laws and ideas. The kangaroo is a liability to landholders and is treated by them as vermin. Improvement of watering points has stopped the natural kangaroo culling process. Lack of water culled kangaroos naturally; renewed water supply has allowed the kangaroo population to increase and cause untold ecological damage. However, any culling methods selected should be economical.

The food advisory committee recommended that kangaroo meat be made available for human consumption. Kangaroo meat is extremely lean, dark red and low in cholesterol, with a decent and welcome game flavour. There is an expanding export market for the meat, especially in Europe. Landholders desperately need greater income just to survive. At the moment hundreds of landholders are in dire straits. Are they to be deprived of another source of income which could assist maintenance of their properties? Australia needs foreign exchange. Millions of kangaroos could be farmed

economically, and this would prove to be a great asset to Australia. In addition, a seemingly endless potential is developing for kangaroo meat. Starvation has caused tremendous degradation to the environment. Ways must be found of utilising all our resources, including the kangaroo. People who regularly travel in the Western Division are appalled by the environmental damage being done to the pastures of the western plains by excess numbers of kangaroos. The kangaroo population is expanding and is being culled only by natural means through drought and old age, the small skin and pet meat trade, poisoning, electrocution and, in desperation, indiscriminate shooting. Most of that culling is just a sheer waste, unchristian and completely contrary to the precept of waste not, want not, which was part of my upbringing. At present kangaroos are in plague proportions. Putting a value on the kangaroo will guarantee its future. It is wonderful that kangaroos are to be seen where they have never previously been sighted, including the hills in the 80 kilometre area around Lithgow. On the basis of sheer commonsense and of heeding the requirements of landholders, I support the bill.

**The Hon. I. M. MACDONALD** [10.35]: I support the position outlined by the Deputy Leader of the Opposition in relation to the bill, but I wish to make a few comments which go beyond much of the rhetoric generated on all sides of the House on this issue. Undoubted scientific evidence is available to refute many of the statements made about eating kangaroo meat. The major issue raised about kangaroo meat by the Hon. R. S. L. Jones and others is the presence of salmonella and worms. Salmonella in kangaroo meat has been examined at length in a number of studies by scientists operating within the framework of the Commonwealth Scientific and Industrial Research Organization. A proportion of all raw animal products carry salmonella but do not generally cause food poisoning problems because they are not eaten raw. In most cases, once food is cooked, salmonella is eliminated. The salmonella organism is very sensitive to heat and is generally killed by it. Many other food products also carry salmonella but do not generally cause food poisoning because they are cooked or because not enough organisms are present to cause problems in the consumer.

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For example, in 1990-91 the IMVS Salmonella Reference Laboratory in Adelaide reported cases of isolation of salmonella in foods as diverse as macadamia nuts, white pepper, sultanas, cereal, ice cream, cake and drinking water. Salmonella was found to be widely present in a broad range of products. Raw crocodile meat is commonly reported as carrying salmonella species, some of which are included in the top 10 human serotypes. However, there do not appear to have been any major food safety problems associated with its increasing usage as a human foodstuff. Crocodile meat is becoming a far more popular food product in this and other States as crocodile farming, a sound environmental measure, is adopted in north Queensland and the Northern Territory. Multiplication of salmonella and most other food spoilage and food poisoning organisms is inhibited at low temperatures. The sooner the product is refrigerated the better, as noted by the Deputy Leader of the Opposition about kangaroo meat. I raise the issue of salmonella and other food poisoning organisms because they have been mentioned extensively in a number of ill-informed letters from various organisations opposing the use of kangaroo meat for human consumption. The opportunity for salmonella and many other food poisoning organisms to contaminate meat is limited while the skin is still attached to the entire carcass.

Anyone who deals with meat knows that. To cause contamination of the final product, these organisms need to come into contact with the meat bled once the skin is removed through damage sites or once the meat is cut into joints to cause contamination of the final product. Chilling is probably most important immediately after skinning,



gutting and particularly jointing of the carcass, which is when the ultimate product tends to become contaminated. The scientific evidence suggests that whilst the animal retains its skin, and that is not cut and the carcass is not jointed the risk of contamination is low. That applies to all animals killed for human consumption, whether cattle or kangaroos. We must remember that all large animals destined for human consumption do not land on the consumer's plate immediately after slaughtering. As we know, the time between slaughter and use of the meat is many days. Carcasses are hung for some time to allow the process of rigor mortis to be completed. The larger the animal, the longer it takes. Most warm parasites are also killed by cooking. It is a furphy to argue against consumption of kangaroo meat because of salmonella. Most of the salmonella strains found in kangaroo meat are found in other forms of meat, according to the briefings that I have received, and are eliminated with even mild forms of cooking, although the general principle applies that the longer the cooking process the more elimination of salmonella occurs.

**The Hon. R. S. L. Jones:** What about atypical tuberculosis?

**The Hon. I. M. MACDONALD:** I will get on to all of these matters. The Hon. R. S. L. Jones does not understand. It has also been suggested that somehow or other kangaroo meat has more parasites than other forms of meat. Parasitical infection of meat can be detected upon the meat's dressing for human consumption or, in many cases, can be eliminated by a level of cooking. Most warm parasites are killed by cooking. Chemical residues in the meat of wild shot kangaroos generally speaking are lower, and certainly not higher, than those in the meat of farm domestic livestock such as cattle. Chemical residues are another subject raised in this debate. All potential food hygiene problems can be eliminated by routine handling and cooking measures. It has been clearly demonstrated by all scientific data that normal cooking and inspection procedures will contain or eliminate problems. As long as there are adequate controls to ensure that kangaroo species are not in any way endangered by their harvesting for human food, there should be no genuine environmental concern. The Hon. R. S. L. Jones has expressed concern that kangaroo species should not be endangered in

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any way by culling. The National Parks and Wildlife Service has overriding powers to determine the level of kill and the Federal authorities have other powers to determine the extent of the kill. The valid concerns raised by the Hon. R. S. L. Jones are covered by the bill.

Culling will be limited according to the biological needs for the survival of the animal. Kangaroos are an environmentally friendly species compared with introduced, cloven-hoofed domestic livestock species. This is another point that the Hon. R. S. L. Jones should consider. Many of the species imported since 1788 to support Western human habitation of this continent create far greater environmental damage than kangaroos do. If kangaroo meat replaced some lamb and beef on the Australian consumer's plate, this would be an environmental plus. In the past year in Queensland it has been shown that substitution of kangaroo meat in the diet of meat eating Australians would improve the environmental standards of this country because kangaroos are environmentally friendly, as distinct from the type of animals I have such as cattle, which do considerable environmental damage. I would hope that the Hon. R. S. L. Jones would consider what one could call an environmental displacement program by which meat from culled kangaroos would reduce consumption of other red meat.

In some of the material I have received it is said that consumption of kangaroo meat would be a disgrace because we would be eating our national emblem. One of the documents I received asked whether kangaroos should be a living treasure or an

economic resource and questioned whether we should be eating our national emblem. I do not see that there have been any problems for the Welsh in eating leeks over the last 1,000 years or for the French in eating roosters. They have invented many nice ways of eating their national emblem. Not only that, the Lebanese cut down their national treasure in bulk. Such emotional campaigns are a bit over the top. We have to harvest what resources we have in a sustainable way. We must ensure that kangaroos survive, but we must also be wary of emotional arguments to the effect that in no circumstances may we eat these so-called living treasures. If we have to cull kangaroos because of the competition between them and domestic animals, it is much better that the meat is used effectively and properly within our diet. It should not be left to rot on a dusty back road in western New South Wales. The Hon. R. S. L. Jones has raised the question of worms. Worms are destroyed by cooking. There are no worms in kangaroo meat; the lymph system of kangaroos harbours worms. In a CSIRO analysis of the lymph system of kangaroos, which I am happy to provide the Hon. R. S. L. Jones with later, it was concluded that an ordinary inspection would be sufficient to pick up an infestation of worms. In the more over-the-top material that I have received on recycled paper, people have confused other forms of worms with those that are in kangaroos. Feral pigs harbour trichonella worms in the flesh, which is a potential problem, but again decent cooking can eliminate trichonella worms and associated worm infestations.

Kangaroo meat contains formic acid, but that acts as a preservative. Kangaroos eat plants that tend to generate that acid, and they are not a problem. Kangaroo meat is evaluated in great detail in a major Commonwealth Scientific and Industrial Research Organization study entitled "The fatty acids of kangaroo and wallaby meat" by Mr G. L. Ford and Mr A. C. Fogerty. The contrast with domesticated animals is stark and convincing. The authors of the study do not rely on emotional arguments but upon a scientific analysis of kangaroo meat and its suitability for human consumption. I am happy to give honourable members the opportunity to read this material. Another important matter is the type of guidelines which will be created for the proper handling and usage of kangaroo meat for human consumption. The Minister for Agriculture and Rural Affairs has been derelict in not explaining fully how the Government intends to regulate the production of kangaroo meat. I should like to take a few minutes to outline exactly what will occur in the proper handling of this meat.

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Recommendations were made to the New South Wales Minister for Health on the regulatory controls which should apply to kangaroo meat taken for human consumption. Those recommendations were compiled by an acknowledged expert in the human consumption of animal meat, Dr Paul Hopwood from the faculty of veterinary science at the University of Sydney. The recommendations are extensive. On page after page Dr Hopwood outlines the sorts of regulations that can be used for the proper handling of kangaroo meat from slaughter through to human consumption. Those regulations, which will be implemented, relate to such matters as the holding of a National Parks and Wildlife Service trapper's licence, having a minimum of one year's experience in kangaroo shooting for pet food and the completion of such courses in hygienic meat handling as stipulated by the New South Wales Department of Health. Ancillary to that is a TAFE course for kangaroo shooters which will detail at great length the regulations and rules relating to the shooting, handling and dressing of kangaroo meat for human consumption. I will not delay honourable members, but this document occupies 30-odd pages. It deals in great detail with how most of the problems relating to the human consumption of kangaroo meat should be handled. It deals also with some of the problems which will undoubtedly be raised by the Hon. R. S. L. Jones. The following appears on page 27:

subject to the disease status of local kangaroo population the following lymphocentres may need to be examined visually and by palpation. Where necessary the lymph nodes shall be incised:

with the carcass

The study then lists the various things one should look for and what one should deal with.

**The Hon. D. F. Moppett:** They are standard practices to detect infection.

**The Hon. I. M. MACDONALD:** Yes. I am sure the Hon. R. S. L. Jones will raise issues which were neglected to some extent in the other place. Those issues are dealt with in detail within the guidelines which will be issued by the New South Wales Minister for Health in relation to the provisions of the bill relating to kangaroo carcasses. Over the years a great deal of work has been done which demonstrates clearly that kangaroo meat is a healthy and low cholesterol meat. Given that the vast majority of Australians are meat eaters, undoubtedly the greater the number of Australians who can be encouraged to eat low cholesterol meat, such as kangaroo meat and Scottish highland cattle, the better. Undoubtedly the environmental concerns that will be raised by the Hon. R. S. L. Jones can be allayed provided that the National Parks and Wildlife Service correctly determines a realistic level of cull. It will be far better to use kangaroo meat for human consumption than to leave it to lie wasting on the ground. As the National Parks and Wildlife Service and the Department of Health have demonstrated, kangaroo meat can be used safely for human consumption. That has been demonstrated also in other States of this great land. The emotional issues must be left behind. This bill must be looked at in the light of cold hard clinical data. Honourable members should look forward to this resource being properly and sustainably managed for human consumption.

**The Hon. R. T. M. BULL** [10.56]: I should like to commence my contribution by congratulating the Hon. I. M. Macdonald on a well-researched speech. He showed a great deal of common sense and leadership. I only hope that he leads his peers across to this side of the Chamber when the House votes on this bill. He highlighted most of the fallacious arguments that have been advanced by the likes of the Hon. R. S. L. Jones during the three years that this bill has gone backwards and forwards between this House and the lower House. This is my third contribution to the same bill. I hope I do not use the same words, but the message is exactly the same. At both Federal and State levels

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there is bipartisan support for a kangaroo management program which maintains the kangaroo population while controlling its harmful effects on agricultural and pastoral lands. Such a program means that every year a number of kangaroos are culled. The kangaroo management program is accepted. The New South Wales Government has now introduced this bill to allow kangaroo meat for human consumption, which will allow better utilisation of the resource. Kangaroo meat is of such quality that it is only fit and proper that it be treated like the quality meat it is. Rendering the kangaroo a valuable animal in monetary terms will possibly do more for the conservation of the species than any other move the Government could make. The best way to ensure that no animal becomes extinct is to convert it into a highly valued resource.

Conservation groups have welcomed this move. The Land Conservation Council of New South Wales heralded the Government's decision to introduce this legislation as a major step forward in the conservation of all macropods. The kangaroo is finally being recognised as a valuable natural resource with intrinsic economic worth. Kangaroo meat is top tucker. It cooks easily, tastes great and has considerable dietary

advantages over beef, lamb, chicken and even some seafoods. Mr President, from time to time you and I and a number of our colleagues have tried kangaroo meat in another State. It was a culinary delight. I recommend it to all honourable members. It cannot yet be eaten legally in New South Wales, but if honourable members have the opportunity to eat it interstate they will find that it is certainly a culinary delight. It comes from an animal which, unlike cows, sheep and other hard-hoofed beasts introduced into Australia, is environmentally non-destructive, as the Hon. I. M. Macdonald has pointed out. Vast tracts of land are dying or dead because they are being grazed by foreign animals which are ecologically unnatural. Indeed, this kind of land and animal management might be found to absolutely guarantee the survival of the kangaroo species. Kangaroos taken for human consumption will be taken from within the cull. No additional kangaroos will be taken. The passage of this bill will lead to better utilisation of the kangaroos taken from the cull. In New South Wales kangaroos are already harvested for pet food, skins and export meat for human consumption.

There are good health reasons for allowing human consumption of kangaroo meat. Kangaroo meat is reliably lean, low in fat, rich in iron and protein, and could be readily incorporated into cholesterol lowering diets. As with other wild meats, it is free from chemical residue. A return to a diet rich in kangaroo meat significantly reduces the risk of heart disease by lowering cholesterol. Heart disease is still the nation's number one killer. Nutritionists are keen to have kangaroo meat made available for human consumption because there is a complete absence of the major diseases or conditions associated with domestic animals. Kangaroo meat presents little or no danger to human health compared with other forms of meat and there are no public health reasons why it should not be considered as a viable alternative to meat from domestic animals. Kangaroo meat has been available in South Australia for 12 years and there has been not one incident of illness associated with its consumption. In the past seven years kangaroo meat for human consumption has been exported from New South Wales to Japan, the United States, the Netherlands, Taiwan, Hong Kong, Reunion Island, Papua New Guinea and the Middle East.

The bill will impose extremely stringent standards for the processing of kangaroo meat. In New South Wales kangaroo meat for human consumption will meet export standards which are among the highest in the world. The readiness of butchers to imply that kangaroo meat sold for human consumption might not meet the same standards of hygiene as other meats is no more than insinuation; they know that New South Wales and Federal controls will ensure that kangaroo meat sold for human consumption meets the

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high standards required for game exports. Disease levels in the wild kangaroo population were found to be very low, and in fact the incidence of disease in the wild kangaroo was lower than in our domestic animals, such as cattle, sheep and pigs. I believe that we should be proudly serving up this delicious red meat, which is a culinary delight, as our national game meat - not feeding it to the dogs.

**The Hon. R. S. L. JONES** [11.2]: Honourable members should look at the furphy that the proposed legislation is just about kangaroo meat. Of course it is not just about kangaroo meat. The title refers to game meats and not kangaroo meat. That is the number one trap in the legislation. The definition on page 2 reads:

"game animal" means kangaroo and includes any other animal that the Minister, by order published in the Gazette, declares to be a game animal for the purposes of this Act.

When I raised this issue in public, the Minister said, "Oh, no, those other animals are

protected animals". Of course, the kangaroo is a protected animal also. All native animals, apart from dingoes, are protected. No doubt the Minister intends to include other animals in an order published in the *Government Gazette* - possum and emu meat will probably be the next to be covered. We are not just talking about kangaroo meat today; we are talking about emu meat, possum meat and other meat - we do not yet know exactly what. In a press release I said that koala meat could possibly be next. I said it facetiously, though the editor of "Stay in Touch" thought I meant it. In theory, it would be possible for the Minister to publish an order in the *Government Gazette* declaring koalas to be game. The legislation does not prohibit that. The legislation will allow any native animal to be declared game.

Let me begin by knocking that furphy on the head. It is not just kangaroo meat that is involved but all native wildlife. I would say that, without question, if the legislation is passed, other animals will be added to the list and people will be surprised to find that they can eat possum meat and all sorts of other animals which are currently protected native wildlife. As usual when wildlife is involved, an industry will develop. I have been around the world more times than I can recount and have seen the impact on wildlife populations of their use for human consumption, whether that use be for their skins for leather or whatever. Animal after animal, fish after fish and bird after bird have been brought to the edge of extinction through commercialisation. I spoke to a very old man, now deceased, a World War I veteran, who told me about the numbers of herrings which were once washed up from the North Sea. It was one of the most abundant fish in the North Sea - a plague of herrings, one might say, because every wild animal is declared to exist in plague proportions - and now they are very scarce. Fishermen are fighting over the last few remaining herrings.

In America one hundred years ago there were literally billions of passenger pigeons - in 1870 there were approximately six billion passenger pigeons in America. It was a game bird. The hunters used to fire their guns just into the air and bring down 10 or 20 birds at one time. By 1917 the passenger pigeon, one of the most abundant birds on earth, was extinct - totally gone from the face of the earth. The same thing is happening in respect of the whales that swim past our shores. Recently, I went to Hervey Bay to see some of the remnants of the whale population. In just 10 short years until 1962, 99.9 per cent of all whales passing the Australian coastline were killed because they were a free resource; they belonged to no one. The same thing happened to the ocelot in the Amazon jungle. When I was a young man they were very common. Now they are an endangered species. This has happened to animal after animal, including the elephant. When I went to Africa there were plenty of elephants; now they

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are on the endangered list. All wildlife, when treated in this manner, being a free resource inevitably is overharvested. Kangaroos have been overharvested from time to time in the past 40 years. In the early 1960s Jack Absalom sold his rights to harvesting kangaroos at Broken Hill, because he had shot out the red kangaroo in that area. Australia is just coming through one of the worst droughts in the past 60 years. Honourable members from country areas will be aware of that - I am certainly aware of it.

**The Hon. J. R. Johnson:** So am I.

**The Hon. R. S. L. JONES:** The honourable member is aware of it and other members of the House may be aware that Australia is experiencing the country's worst drought in 60 years. I believe that Bob Hawke claimed credit for breaking the 1982-83 drought during the March 1983 election campaign. When that drought broke by the end of March the population of kangaroos, as counted in July 1983, had dropped by some 30

per cent or 40 per cent. The National Parks and Wildlife Service conducts aerial surveys. Those surveys are very inaccurate - and it admits they are used only as a guide - but they can tell the trends in the population. The service knows that it cannot get precise figures; it cannot possibly count the kangaroos. It uses the Graeme Caughley correction factor for determining the number of kangaroos. We have looked at the science of that system time and again, looking at models and population counts on the ground. It is quite clear that the Caughley correction factor for red kangaroos overestimates the red kangaroo population by approximately double. Likewise, the Caughley correction factor, which is still used by the National Parks and Wildlife Service, underestimates the population of grey kangaroos. One of the reasons for that is that red kangaroos are far more visible than grey kangaroos, obviously because they are open plains kangaroos and they are larger, and grey kangaroos tend to congregate at the treeline and are less visible.

The Caughley correction factor is used in respect of both groups but there is no question that the red kangaroo population has been overestimated time and again. That is the group that was in trouble some years ago. Mr Justice Murphy, at the time when he was Minister for Customs in 1973, placed a prohibition on the export of kangaroos to help save the red kangaroo, which was being overharvested at the time. The Minister in his second reading speech - I asked him to read it; it was written for him, of course - spoke about the rising kangaroo population, and the fact that the increase in the kangaroo population was due to sustained above average rainfall. The speech was written before kangaroo population figures were available for this year. The Hon. L. D. W. Coleman spoke some nonsense about there being nine million red kangaroos, or some outrageously ridiculous figure. The red kangaroo population is nowhere near nine million today. I have a fax which emanates from the National Parks and Wildlife Service dated 29th September. It lists the proposed kangaroo quotas for 1993 for New South Wales. The fax talks about an aerial survey carried out over most of the western plains of New South Wales between June and August 1992, which shows decreases of between 40 per cent and 80 per cent in the numbers of red and grey kangaroos respectively over the past 12 months. The estimated number of kangaroos in that area was approximately 3.38 million reds and four million greys; the greys being made up of 2.68 million eastern greys and 1.32 million western greys.

A quick mathematical calculation reveals a 2.6 million population drop in just 12 months. The figure coincides with the 1982, 1983 and 1984 figures. It follows the same graph, but regrettably this year the population drop will be steeper. The drought did not reach its full intensity until September, after these surveys had been carried out,

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and though these animals tend to remain alive in drought conditions for quite some time, suddenly large numbers of them die. They become so emaciated and weak that one can virtually walk up to them and push them over. We knew that they were going to die in large numbers. The population had been building up to what it was in 1982 - nine million odd. In two years the drought reduced the population by 66 per cent. I have no doubt that these aerial surveys will estimate that the kangaroo population this time next year will be no more than four million to 4.5 million in total. I could almost guarantee that this will be the case. The total population will be exacerbated by the level of legal and illegal killing and road kills. One member spoke about having seen for the first time kangaroos by the roadside. He does not seem to be aware that in times of drought kangaroos go to the roadside in search of feed. They do not go there by choice; they go there in desperation. Equally, during times of drought, for aerial surveys kangaroos are more visible on the ground, in particular the red kangaroo. The usual overestimation is double because they are far more visible during the day when looking for food.

The proposed quota for next year of the kangaroo population, which has been reduced by 2.6 million, is 1,665,500 kangaroos, comprising 598,800 reds, 748,500 eastern greys, 316,300 western greys and about 23,000 wallaroos. This year the percentage of the population of eastern and western greys to be so-called culled will be close to 30 per cent of the entire kangaroo population. Though the kangaroo population growth has dropped by 8 per cent, a considerable proportion of the remaining population is to be culled. This is not really a culling program. It is actually a population reduction program. A former Western Lands commissioner informed me that he wanted to reduce the kangaroo population in western New South Wales by 80 per cent, because they were causing problems. That was his aim. The other day it was announced that there will be a record wheat crop this year. Surely it would be impossible for there to be a record wheat crop when we have had so many problems with kangaroos?

One rarely, if ever, hears of actual crop losses caused by kangaroos. Usually the losses are caused by drought and not by kangaroos. Where there are problems with kangaroos in, say, wheat growing areas, often farmers plant perimeter crops for kangaroos to eat. I have visited a number of properties where farmers do that; they live with their kangaroos. Unfortunately the majority of farmers regard wildlife as pests. Two kangaroos on a property are regarded as a plague. A German farmer in the Narrandera area who recently came to this country is getting four times the yield of his neighbours because he is using organic techniques to farm. He does not use sprays. He is selling his animals in Germany at twice the price because they are organically raised. They are not drenched or sprayed with chemicals in any way. He does not shoot his kangaroos. He has a number of kangaroos on his property but he never shoots them, yet he gets four times the yield of his neighbours. His neighbours ask him, "How are you making so much money?" He was not a farmer before he came to this country three years ago. He loves the Australian wildlife and regards kangaroos as marvellous creatures. He does not think of them as pests as Australian farmers do. His neighbours still shoot kangaroos on their properties. They regard two or three kangaroos as a plague. He has told me how his neighbours shoot eagles and kill snakes. He does not do that on his wildlife reserve of 2,000 or 3,000 acres. The same problem exists up north where people shoot virtually anything that moves.

It is fitting that this legislation has been introduced by a National Party Minister. National Party members are anti-wildlife and would like to clear most of the Australian wildlife out of the country. They automatically regard wildlife as pests. They think of two or three wild animals as a plague, but 2,000 or 3,000 overstocked sheep as good profit. The Roy Morgan Research Centre, which is about the only research centre I

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respect - but which has now moved from the *Bulletin* unfortunately - conducted a survey on whether kangaroo meat for human consumption should be legal or illegal. They asked 1,833 men and women aged 14 years and over throughout Australia their opinion on kangaroo meat. People surveyed were told first, "As you might know in all States, except South Australia, it is not legal to sell kangaroo meat for human consumption". They were then asked, "In your opinion, should selling kangaroo meat for human consumption be legal or not?" The survey showed that 38 per cent of Australians 14 and over believed that selling kangaroo meat for human consumption should be legal; 56 per cent believed it should be illegal, and 6 per cent could not say.

It is interesting to note the different responses of the men and women. Remember that there are more men parliamentarians than women parliamentarians in this Chamber. Of those surveyed, 49 per cent of men believed that it should be legal and 46 per cent of men believed it should not be legal, whereas 28 per cent of women, who are far more sensitive to these issues, said it should be legal and 66 per cent said it should not

be legal. Women have a degree more sensitivity than men. Women do not go to war, for example. They are the ones who tend to nurture whereas the men tend to be the hardcore killers in society. The men are the ones who have the guns, not the women. It is interesting to examine the analysis by age groups. The age group 14 to 19 are more environmentally aware and sensitive of wildlife issues than older males; 28 per cent of 14-year-olds to 19-year-olds said that the selling of kangaroo meat for human consumption should be legal and 70 per cent said it should not be legal. There is a clear age bias. In the 20 to 29 age group, 42 per cent said it should be legal and 54 per cent said it should not be legal. Of the 30 to 49 age group, which is more representative of the age group in this Chamber, 43 per cent said it should be legal and 51 per cent said it should not be legal. Nevertheless, throughout all the age groups the majority of Australians - a ratio of almost two to one - said the selling of kangaroo meat for human consumption should not be legal. Though members of this House are in favour of the legislation - and National Party members, who are notorious for their anti-wildlife, redneck attitudes, have spoken in favour of it - the community in the real world, where the voters are, is opposed to it.

**The Hon. J. F. Ryan:** Did the honourable member analyse the figures for people who live in rural areas?

**The Hon. R. S. L. JONES:** I will come to that in a minute. The survey also asked, "If the law was changed to make it legal to sell kangaroo meat for human consumption, would you eat kangaroo meat - regularly, occasionally, just to try it or never?" Only 3 per cent of Australians aged 14 and over would eat kangaroo meat regularly if the law were changed to make it legal, and I think most of those are members of the National Party; 14 per cent would eat kangaroo meat occasionally; 27 per cent would eat kangaroo meat just to try it; 53 per cent would never eat kangaroo meat; and 3 per cent would not say. It is interesting to note the various biases between men and women: 5 per cent of men would eat kangaroo meat regularly - the real macho, gun-toting males who like to eat red meat and probably eat kangaroo meat raw because they think it is macho; 20 per cent would eat it occasionally; and 31 per cent would just try it for fun. A total of 56 per cent would try it, but only 5 per cent of men and women would eat it regularly. A similar bias is evident among women: only 2 per cent would eat kangaroo meat regularly, 8 per cent would eat it occasionally, 24 per cent would try it for the experience and 63 per cent would never eat it. In South Australia, 5 per cent would eat kangaroo meat regularly and 15 per cent would eat it occasionally. Even in South Australia, where it is legal to eat kangaroo meat, very few people eat it for cultural reasons, health reasons, wildlife reasons or for numerous other reasons.

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**The Hon. J. F. Ryan:** What about in the country?

**The Hon. R. S. L. JONES:** The Hon. J. F. Ryan has just asked me about the difference between the country and the city. Now that he has raised that question, I feel obliged to put it on the record.

**The PRESIDENT:** Order! I am sure the Hon. R. S. L. Jones's contribution will be expedited if there are fewer interjections.

**The Hon. R. S. L. JONES:** You might well be right, Mr President - the fewer the interjections, the fewer I will have to reply to. I do not have a survey comparing the figures for the consumption of kangaroo meat; I do have a survey carried out by the Roy Morgan Research Centre on the exportation of kangaroo and wallaby meat and skins,



which is relevant in that it shows the different attitudes of people living in the country and those who live in the city. Surprisingly, country people were more opposed to the export of kangaroo meat and skins than city people. Can honourable members believe that? I will not go into the detail of the figures; I do not want to bore honourable members. The extensive Roy Morgan Research Centre survey showed that more country people than city people were opposed to the export of kangaroo meat. That is quite fascinating. The Hon. I. M. Macdonald gave a superficially researched speech - if he had spent a bit more time working on it, perhaps he would have discovered a few more facts. He obviously believes the propaganda put about by a well-known professor with whom I have had a few run-ins - I will not name him in Parliament because he is a decent human being; it is just that some of his views are misguided. The honourable member has obviously picked up the professor's ideas in total and swallowed them hook, line and salmonella. On an earlier occasion I spoke on this issue for an hour-and-a-quarter. I was hoping that I would not have to speak at such length again, but so much misinformation has been put on the record that, unfortunately, I will have to correct it. I wish I did not have to do that. I draw to the attention of honourable members W. E. Poole's *Management of Kangaroo Harvesting in Australia*, which was published by the Commonwealth Scientific and Industrial Research Organization. We all know that W. E. Poole is an expert on kangaroos. With respect to hydatids, he stated:

These occur in kangaroos, but due to their two-stage life cycle, which require a canine host, are unlikely to be transmitted directly from kangaroos to humans. In this respect the feeding of raw kangaroo meat to dogs is more dangerous.

He referred also to 1080 baiting, which has not been referred to by any member. He stated:

Poison baiting with 1080 is widespread, and kangaroos are among the animals affected. It is possible for a poisoned kangaroo to travel some distance before dying. It may be that poisoned kangaroos could end up in the meat supply, with adverse consequences.

These are the words of a scientist, not a greenie or a feral person. He also spoke about salmonella, and I will return to that in a moment. He stated further:

The presence of salmonella bacteria in large numbers of kangaroos is well established. There have been cases of salmonella poisoning from eating kangaroo meat in humans both in Europe and Australia . . .

He stated that ante-mortem inspection is impossible. He referred to bacteria which breed in the internal organs. Theoretically, kangaroos should be head-shot but in practice may be shot in the gut or chest cavity, spreading bacteria throughout the meat of the kangaroo. The time between shooting and chilling of the carcass may be long enough to allow

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bacteria to breed. The difficulty of providing adequate or, indeed, any supervision in the field exacerbates the above factors. *The Biology of Marsupials*, edited by B. Stonehouse and D. Gilmore, published by the Macmillan Press Limited, London, lists diseases in kangaroos. It refers to coccidia occurring in both red and grey kangaroos, filarioids, trichonematids, trichostrongylids, strongyloidids, and toxoplasma. Other diseases include white muscle disease and lumpy jaw. Graeme Caughley, an important scientist who is used by the National Parks and Wildlife Service federally and in this State, has conducted many surveys from the air and is quoted by many. His book, *Kangaroos: Their Ecology and Management in the Sheep Rangelands of Australia*, published by the Cambridge University Press, states:

Meat for human consumption is primarily exported as game meat. Between about 1955 and 1969 the exporting of game meat was closed down by importing countries for several reasons including poor meat quality, high salmonella contamination, contamination by vegetation and dirt, and infestation by the parasite *Dirofilaria roemeri*.

The export trade resumed in 1980 . . .

Honourable members may remember the big scandal, particularly in Victoria, about meat substitution and also the Woodward royal commission into the Australian meat industry. A few days ago I caused a question to be asked in the Senate about the Woodward royal commission report because appendix H, which has been suppressed for 10 years, reveals a number of individuals and companies engaged in illegal trade and export trade; they substituted kangaroo meat for beef, which brought the American trade to a considerable decline for quite a long period. It cost this country tens of millions of dollars. There was a big scandal about it 10 years ago. The individuals and organisations that were involved in the illegal trade then are still the principal people involved in the trade today. Tim Moore, when he was the shadow Minister for the environment, told me in his office that he had a file of people involved in the illegal kangaroo trade. He said he would reveal the information when he became a Minister. We waited and waited; and I asked him repeatedly about it, but it was never revealed. Appendix H has never been made public; it would have been made public except for an agreement between New South Wales, Victoria, Queensland and the Federal Government. It will not be made public until all of those mentioned have been prosecuted and all criminal actions have ceased. The information has not been revealed after 10 years. I can tell the House that I have seen a leaked copy of appendix H - I am one of the few people in the country to have seen it. The same people are involved in the trade today. Unwittingly the Government is assisting organised crime in this country, people engaged in illegal activities. I have talked to these people; I know who they are. They are in Queensland, New South Wales and Victoria. The Government is pandering to the same people who will be involved in this very dirty trade. I would like to quote two other scientists, H. J. Frith and J. H. Calaby, who in their publication entitled *Kangaroos*, published by F. W. Cheshire Publishing, stated:

Kangaroos contract and contain numerous diseases and endoparasites. Diseases include pneumonia, tetanus, salmonellosis and various mycotic, protozoal, and helminth infections.

Endoparasites, including worms, such as *Labiostrongylus longispicularis*, bot flies (*Tracheomyia macropi*), coccidia (*Eimeria* spp) and other Protozoa, cestoda and Nematoda, Nocardiosis or lumpy jaw and coccidiosis have also been found in kangaroos.

**The Hon. J. H. Jobling:** They are found in just about every other animal.

**The Hon. R. S. L. JONES:** The honourable member can eat them; I do not have to. The *Medical Journal of Australia* published an article in October 1964 which was quite revealing:

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During the period 1960-1964, a number of unusual salmonella were isolated from human sources with increasing frequency, in the Salmonella Reference laboratory, Adelaide. There is little doubt that kangaroo meat, sold as pet-food, constitutes a serious danger to public health if the observed degree with salmonella is allowed to continue.

These are unusual salmonella; not your usual salmonella. In the second edition of *Food*

*Microbiology*, a McGraw-Hill publication, an article by W. C. Fraxier stated:

Methods for the detection of disease or disease organisms are often laborious, difficult, unreliable and the tests are usually too impractical to apply to meat animals at the packing plant and cannot be applied to food handlers as often as desired.

We should remember that these animals are being killed at night and some distance from the processing plant. I have been on kangaroo shoots, and I am sure other members have also. I would not be surprised if some members had even shot kangaroos. We know how they are shot and gutted on the spot, with their heads and tails chopped off. Kangaroo shooters are certainly an unusual breed of people, very different from other people I have met. They do this for a living - but I am not knocking that. There is no way that the people I have met - and I have met probably 80 or 90 kangaroo shooters now - could be controlled. One might say that they are a very individual breed. A book should be written about them. They are a very interesting bunch of people. Maybe one will be written one day. Karen Hobson wrote an article in the *Canberra Times* on 8th December, 1988, discussing the problem of hydatids.

[*Interruption*]

We have to make sure that Reverend the Hon. F. J. Nile knows that there are more problems than are revealed by the Government.

**The Hon. B. H. Vaughan:** Just sit down.

**The Hon. R. S. L. JONES:** Just be patient. We are talking about millions of animals.

**The DEPUTY-PRESIDENT (The Hon. Dr Marlene Goldsmith):** Order!

**The Hon. R. S. L. JONES:** Thank you, Madam Deputy-President. They are a rowdy mob tonight. It has been said that no more kangaroos will be killed. It is true that the quota will not rise as a result of this legislation unless the kangaroo industry applies pressure. In 1983, when the kangaroo population dropped considerably, the kangaroo quota did not drop. The quota is much higher today than then; it is three times what it was then. The quota did not drop when the population had already crashed, and it is the same situation now. As the Minister for the Environment and the Director of National Parks and Wildlife have been alerted to what is going on, perhaps they will bring the quota down to a reasonable figure. The fact is that the kangaroos used for human consumption are not the same as those used for animal consumption in the form of pet food. There are two quite distinct and separate markets. Kangaroos shot for their skins mainly, with meat as a by-product, have their skins sent mostly to Italy or Japan, with a few going to local markets. Kangaroo meat is usually used for animal food. There is very little skin-only shooting in New South Wales; there is a lot more in Queensland, where carcasses are left to rot. There is a problem with flies there.

The kangaroos used for human consumption are young kangaroos, preferably young tasty females. Invariably, if they are old enough - 18 months old - they will have joeys both in the pouch and at foot. Not one animal is being killed but three. I guess that would not matter to the Minister for Planning. The situation is not as simple and

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straightforward as the Government would have us believe. Animals will be killed. Some information is coming from South Australia about problems there. I fear how many animals are left in various species. There has been publicity by the meat industry,

including by butcher shops, in headline articles revealing their concern about selling kangaroo meat. The industry has largely opposed the introduction of kangaroo meat for consumption, although there are two or three shops and restaurants in Sydney selling kangaroo meat illegally at the moment - and without any retribution.

**The Hon. J. H. Jobling:** Name them.

**The Hon. R. S. L. JONES:** I will name them if you want. The meat used for human consumption in South Australia is not inspected in any of the 80 slaughterhouses. Only export kangaroo meat is inspected. This information came from an official of the health department in South Australia. At present near Roxby and Beverley uranium mines, kangaroos are drinking from rivers contaminated by radioactive waste. These same kangaroos end up in the human consumption market. There is certainly no testing for radioactivity. Fortunately that problem will not be so relevant to New South Wales, but meat for human consumption in this State will be coming from South Australia, at least initially. Those who eat kangaroo meat might end up getting cancer. That might be karma. The Ku-ring-gai council wildflower gardens, Ultimo food store and several French restaurants in New South Wales are selling kangaroo meat illegally. Nothing is being done about this, I guess in anticipation of this legislation being passed. The honourable member for Manly spoke about the recommendations of Dr Hopwood, who is from the University of Sydney. What Dr Hopwood is proposing is being watered down. I could speak at length on this but I do not intend to do so tonight, as I spoke for 1¼ hours last time; but I would like to remind members of what has happened in the past, because history tends to repeat itself. In 1991 there was a large headline in the *Herald-Sun*, "Meat Crime Probe". Another headline read, "Victoria centre of roo scam".

I shall read that again. An article in the *Sun* of 23rd January, 1987, carried a headline "Victoria centre of roo scam". The *Herald-Sun* of 25th September, 1981, carried an article with the headline "Meat Crime Probe". On 25th July, 1992, articles in the *Age* had the headlines "Griffiths vows to clean up meat industry", "Meat rackets exposed" and "Police report exposes crime networks in meat industry". Criminals will be assisted by the Government through the passing of the proposed legislation and also by the Hon. I. M. Macdonald, unwittingly, who does not know what is going on behind the scenes. The *Age* of 24th July carried the headline "Meat rackets exposed" and the following day ran an editorial under the heading "Something rotten in the meat industry". The editorial stated:

Ten years after a federal royal commission confirmed widespread bribery and corruption in the meat industry and rackets involving the substitution of kangaroo, donkey and horse meat for the beef and lamb, the main changes have been for the worse. The Australian Bureau of Criminal Intelligence has discovered two extremely disturbing developments. One is that many of the "businessmen" involved in this racketeering are still active in the domestic and export meat industry.

I shall make that *Age* editorial available to members; if they want to get hold of appendix H to the Woodward royal commission report, good luck to them; I have been trying to get it for 10 years. The proposed legislation is misleading in that it applies to more than just kangaroos. The kangaroo meat for human consumption industry cannot be controlled - it never has been and never will be. Tremendous scandals occurred in Germany, Holland and England over the substitution of kangaroo and donkey meat. The import wharf at Hamburg was closed as a result of container loads of contaminated kangaroo meat for human consumption arriving there. The person who sent that infected

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meat to Hamburg, causing the import wharf to be closed down, is still one of the key

people in the kangaroo meat industry. The kangaroo population cannot be counted exactly. New South Wales has been experiencing the worst drought for 60 years and the kangaroo population has crashed by 2.6 million. I bet anything that by this time next year the kangaroo population will be much lower than its present level. The proposed legislation, if passed, will facilitate that population decline. Breeding females will be killed. The bill should be thrown out lock, stock and barrel.

**Reverend the Hon. F. J. NILE** [11.43]: I support the Meat Industry (Game Meat) Amendment Bill 1992. The object of the bill is to amend the Meat Industry Act 1978 to enable the processing and sale of game meat, including kangaroo meat, for human consumption. At present kangaroo meat may be sold only as animal food. The bill will also amend the National Parks and Wildlife Act 1974 to provide that a fauna dealer's licence is not required for the retail sale of game meat. Reference has been made in debate to the bill having been introduced and rejected at the first vote. So far as I am aware no vote has previously been taken on the bill. I share with the Hon. Elaine Nile a number of reservations about the object of the bill. Many of those concerns have been discussed over a long period of time with the Minister for Agriculture and Rural Affairs and various officers; and a number of those concerns have now been resolved. In a statement during earlier debate on the Aboriginal issue I described the most powerful influence on the Call to Australia group's attitude to the bill. I said that our organisation puts great weight upon the advice it receives from the Aboriginal community. We have been advised and urged by the New South Wales Aboriginal Land Council to support the bill. The chairperson of the New South Wales Aboriginal Land Council, Manuel Ritchie, in a letter to me dated 28th September stated:

Dear Fred,

I am writing to you on behalf of the 13,500 Aboriginal people that our organisation represents in New South Wales, to explain to you the importance of the proposed Bill to our communities around the state.

The kangaroo, as you know, is a traditional food of the Aboriginal people, and we have continued to hunt and eat it over the last 200 years since white colonisation, despite considerable interference by farmers and the government.

Following the contribution by the Hon. R. S. L. Jones, I might add "and the Australian Democrats":

With the progress of pastoralism across New South Wales and the ecological destruction that has followed there is now a recognised kangaroo problem.

Today, Aboriginal people would like to harvest and market their own traditional food in recognised commercial enterprises. As a commercial venture kangaroo meat is very viable for our communities because it is something many young Aboriginal men can do and are doing anyway. It is also a good lean meat unique to Australia which if marketed properly by visible Aboriginal people, could become accepted by the general population both here and overseas.

With a little more planning, co-ordination and investment in plant and capital the kangaroo meat industry could contribute much to the establishment of self-determination for many communities, especially in the far west.

We strongly support any opportunity for the Aboriginal people of this State to exercise self-determination. Mr Ritchie goes on to say:

With access to both our own land (commercial properties and uncleared land), National  
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parks and crown land or private lands, we have plenty of opportunities to harvest kangaroos for commercial purposes.

The New South Wales Aboriginal Land Council is currently undertaking a feasibility study on the proposed industry and will send you a copy of this when it is completed.

We therefore hope you will support the proposed Bill in the upper house so that it becomes law. Thank you for your time.

Yours sincerely

Manuel Ritchie, Chairperson, NSWALC.

Aboriginal communities, especially those in the Far West, do not have many opportunities for employment. The bill will provide an opportunity and perhaps also an opportunity to undertake an activity that is very much part of their culture and not foreign to them at all. As the letter indicated, Aboriginal people hunted kangaroos long before the first white settlers arrived in Australia. In fact, at the beginning of white settlement Aboriginal people who had freely hunted kangaroos were confused by the reaction of pastoralists or farmers to the hunting of their cattle, sheep or cows. At that time the Aboriginal people thought that farmers' animals on the plains were fair game for them to hunt. That misconception often led to a strong overreaction by farmers and in the early years to the death of many Aboriginal men taking part in what they thought were perfectly legitimate activities. That background is a strong factor in the approach to the bill by the Call to Australia group. We urge the Government, if the bill is passed, to ensure that the Aboriginal people are allowed to be involved in the kangaroo meat industry in this State, and indeed have preference of employment. Aboriginal land councils have large funds from land tax that can be invested in viable industries. Aboriginal people should be assisted, as the letter suggests, if they wish to develop a viable kangaroo meat industry. Aboriginal leaders in this State do not suggest that one or two Aboriginal men should go out and hunt kangaroo. Through the financial strength of the land councils, Aborigines have access to millions of dollars to purchase vehicles for hunting and transportation of kangaroo meat to processing centres.

I propose that Aborigines should have an opportunity to market kangaroo meat so that young Aboriginal people could become involved in both wholesale and retail marketing in the kangaroo meat industry. That approach would make the proposal far more acceptable to the Australian community and to the people of New South Wales. As I said, we have discussed a number of matters with the Minister and his advisers and representatives of various specialised bodies who are concerned about this issue. The amendments that we have now developed would improve the legislation and remove some of its stumbling blocks. One of our original concerns - the Hon. R. S. L. Jones referred to this - was that schedule 1 states that a game animal is a kangaroo or other animal declared to be a game animal by the Minister. Obviously, that would allow the Minister in future to declare other animals as game animals. We do not believe the Minister should have such a blank cheque. A separate bill should be introduced if there is a proposal to declare other animals as game animals for human consumption. I foreshadow an amendment to delete reference to any other animal as a game animal under this bill. It will be confined to kangaroo meat which results from culling operations.

A concern of some groups is the unnecessary slaughter of kangaroos. The bill

as it will be amended, and the regulations, will restrict kangaroo meat for human consumption in accordance with figures authorised by the National Parks and Wildlife

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Service under the direction of the Federal Government, which is apparently present policy. It is difficult for city people - we were city dwellers but we are now living on the South Coast - to comprehend the numbers of kangaroo populations and the quotas. The New South Wales quota must be approved each year by the Federal Minister for the Environment. The Australian Labor Party Opposition can be assured that there is that system of checks and balances. It can be assumed that the Federal Minister would check the figures. The Hon. R. S. L. Jones questioned whether the figures were accurate and asked about the resources used to ensure that the numbers are based on fact, so far as fact can be established in assessing the number of kangaroos in a State.

I was amazed that in 1986 the New South Wales kangaroo population was more than four and a half million and the quota was half a million. The harvest was just under half a million. In 1987 the population of kangaroos had risen to nearly five and a half million and the quota was 577,000. In 1988 the population had risen to 5,498,000 and the quota was 730,000. In 1989 the population was 7,582,000 and the quota was 804,000. In 1990 the population was 8,550,000 and the quota was 1,172,000. In 1991 the population was 9,110,000 and the quota was 1,520,000. The estimated New South Wales kangaroo population in 1992 is more than 10 million and the quota is 2,074,000. The Hon. R. S. L. Jones stated earlier that very few people would eat kangaroo meat because people do not like it. If that is the case, this bill will not cause a problem. The culling quota is designed to save the natural conditions and to avoid destruction of the environment from overgrazing by kangaroos. Therefore, I presume, it will save the lives of the surviving kangaroos. Only a very small percentage of the two million culled kangaroos would be used for human consumption. We will have to see how the situation develops in the future.

This is a controversial issue and some groups have strong views. We saw reports of the raid - almost a terrorist raid - on the office of the Forestry Commission. Government files were broken into and the files were shown on television. Documents were removed - whether they were removed permanently or simply photocopied and returned. These actions raise serious questions about some of the groups involved in the issue. I have proposed to the Minister - and he has accepted - that there should be an advisory committee to supervise the functioning of the legislation to ensure that it is not just set in concrete tonight in a form which people may not be happy with. From the bill's adoption a constant review process will be in place. I have prepared a very detailed amendment, the main point of which is that there will be constant review and a report to the Parliament on the findings of the advisory committee in regard to the operation of the bill and whether any of the fears raised tonight have been justified. The committee would include a range of people, with representatives from the Department of Health, the National Parks and Wildlife Service, the Meat Industry Authority, the Department of Agriculture and other resource people with technical knowledge on the subject. The committee will be a valuable asset and it should reduce the fears about the operation of the bill. It will provide an avenue to monitor whether problems eventuate.

The Hon. I. M. Macdonald referred to matters being covered in regulations and making certain that there is no abuse, knowingly or accidentally. I would like an assurance from the Government that the regulations will require all shooters of kangaroos for human consumption to complete a 10-week technical and further education course to qualify for a licence. This would be in addition to existing requirements of the National Parks and Wildlife Service. Shooters will be required to inspect each carcass for body

condition, skin disease and discharges. If the carcass is not satisfactory it must be downgraded to pet food use or condemned. All shooters' vans will be enclosed and licensed in accordance with the requirements of the Meat Industry Authority. All  
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carcasses must be inspected by the Australian Quarantine Inspection Service for disease and stomach contents. This will apply if the meat is for consumption in this State or for export. Kangaroo meat on public sale will be subject to normal Department of Health inspection at point of sale. The requirements that I am asking the Government to include in the regulations concerning kangaroo meat for human consumption are more stringent than those applying to the meat we now consume - lamb, beef, pork and so on.

As other speakers have said, if there is a cull of more than two million kangaroos and only a percentage of those are used for pet food, obviously a great deal of kangaroo meat is presently being left to rot in the outback. The fears of those who are distressed as much as farmers by such scenes must be allayed. Because of the low sale prices being obtained for farm animals, farmers have found it impossible to pay the costs of transporting sheep and cattle to markets. The sale prices they receive are less than the transportation costs. Some farmers have said that they cannot even afford to pay for the bullets they use to shoot the animals. There must be some way in which that surplus food can be used for the benefit of the needy people in this State and overseas. If it is used to feed such people, the question is: who pays for it? Domestic cattle and sheep are also shot but they are usually buried in trenches in the outback. If two million kangaroos are shot and the majority are left to rot into the ground, there must be some way of getting that surplus food to areas such as Somalia where people are starving. The inability to do that has always puzzled and distressed me greatly. I am sure other honourable members feel the same way. It is not so much a question of overpopulation; the food seems to be in one place, the needy people in another, and the two do not seem to be able to be brought together. I hope the Government will bear that in mind.

As well as providing an opportunity for the human consumption of kangaroo meat in this State, the bill will lead to the further development of Australia's export markets and thus help decrease Australia's overseas debt and assist to resolve other financial problems caused by the recession, now a depression, which has resulted from Mr Keating's policies. The other points are covered by the amendments I propose to move. To repeat several points that have been made earlier, kangaroo meat has been available for human consumption in South Australia and Tasmania for some years with no reported problems; kangaroo meat for retail sale will be subject to strict health controls; it will be packed in sealed plastic bearing the processor's name and will be clearly labelled as kangaroo game meat. That will help consumers to know exactly where they stand. I foreshadow amendments which will seek to establish an advisory committee, to clarify that the bill relates only to kangaroos as game animals and no other animals, and to provide that any animals used for human consumption will come from the cull set initially under the authority of the Federal Minister for the Environment and supported by the State Minister for Agriculture and Rural Affairs. With those words about the condition of the regulations, including the points I have outlined, and subject to the amendments being accepted by the Government - and I understand they will be - Call to Australia supports the bill.

**The Hon. R. J. WEBSTER** (Minister for Planning, and Minister for Housing)  
[12.3 a.m.], in reply: On behalf of the Government I thank those honourable members who contributed to the debate, particularly the Hon. R. T. M. Bull and the Hon. L. D. W. Coleman. Although the Deputy Leader of the Opposition and the Hon. I. M. Macdonald claimed that they opposed the bill, they appeared to me to speak in support of it. I understand there was considerable debate in the Labor caucus about whether the bill



should be supported or opposed. It is unfortunate that the reactionary forces of the left came to the fore on this issue. However, I thank the Deputy Leader of the Opposition and the Hon. I. M. Macdonald for their worthwhile contributions. I thank

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also Reverend the Hon. F. J. Nile for his positive commonsense approach to this controversial issue. The Hon. R. S. L. Jones completely bewildered the House with his confused and bizarre contribution to the debate. Not only was his contribution inaccurate, ill informed and long winded, it was also one of the most turgid diatribes I have ever heard in this House.

**The Hon. R. S. L. Jones:** The Minister fell asleep.

**The Hon. R. J. WEBSTER:** My attention was momentarily diverted. Unfortunately, the Hon. R. S. L. Jones did not properly brief himself before he used what was obviously photocopied propaganda from a source which, of course, he did not name. He then proceeded to make a series of outlandish claims and to introduce a whole series of unsubstantiated red herrings. He quoted unnamed people. Generally speaking, he lowered the tone of debate in this House. I do not want to deal with too much of what he said because not only was he unable to pronounce the names of most of the diseases and worms to which he referred but also most of them were irrelevant to the debate. This issue has been on foot for a long time. An enormous amount of work has been done by my colleague the Minister for Agriculture and Rural Affairs, his staff and departmental staff. It has taken a long time and a great deal of work to get this legislation to the stage where it will now become law. As someone who has legally eaten and enjoyed kangaroo meat, as someone who understands the kangaroo problem in Australia, and as someone who understands the positive effect this legislation will have on the kangaroo species and, indeed, the nation, I commend the bill to the House.

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

**The House divided.**

**Ayes,19**

Mr Bull  
Mrs Chadwick  
Mrs Evans  
Mrs Forsythe  
Mr Gay  
Dr Goldsmith  
Mr Hannaford

Mr Jobling  
Mr Moppett  
Mr Mutch  
Mrs Nile  
Revd F. J. Nile  
Mr Ryan  
Mr Samios

Mrs Sham-Ho  
Mr Rowland Smith  
Mr Webster

*Tellers,*  
Mr Coleman  
Miss Gardiner

**Noes,18**

Dr Burgmann  
Ms Burnswoods  
Mr Dyer  
Mr Egan  
Mr Enderbury  
Mrs Isaksen  
Mr Johnson

Mr Kaldis  
Miss Kirkby  
Mrs Kite  
Mr Manson  
Mr Obeid  
Mr O'Grady  
Mrs Symonds

Mr Vaughan  
Mrs Walker

*Tellers,*  
Mr Jones  
Mr Macdonald

**Pairs**

Dr Pezzutti  
Mr Pickering

Mrs Arena  
Mr Shaw

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**Question so resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

**In Committee**

**Clause 4**

**Reverend the Hon. F. J. NILE** [12.16 a.m.]: I move:

Page 2. After line 13, insert:

#### **Review of amendments made by this Act**

5. (1) The Minister is to appoint an advisory committee before 1 January 1995 comprising the following persons:

- (a) 1 person who is an officer of the Department of Health, nominated by the Minister for Health;
- (b) 1 person who is an officer of the National Parks and Wildlife Service, nominated by the Minister for the Environment;
- (c) 1 person who is an officer of the New South Wales Meat Industry Authority, nominated by the Minister for Agriculture and Rural Affairs;
- (d) 1 person who is an officer of the Department of Agriculture, nominated by the Minister for Agriculture and Rural Affairs;
- (e) 1 person nominated by the Minister for Agriculture and Rural Affairs who the Minister considers represents the interests of consumers;
- (f) if the Minister for Agriculture and Rural Affairs considers it necessary, 1 other person nominated by the Minister who possesses relevant technical knowledge regarding the public health aspects of the human consumption of game meat.

(2) The person referred to in subsection (1)(c) is to be the Chairperson of the advisory committee.

(3) The function of the advisory committee is to review the amendments made by this Act with respect to their impact on public health and any other issue regarding human consumption of game meat which the Minister for Agriculture and Rural Affairs directs.

(4) The advisory committee is, in conducting its review, to seek submissions from the public on the matters referred to in subsection (3).

(5) The advisory committee is to make a written report of its findings to the Minister for Agriculture and Rural Affairs before 1 July 1995.

(6) The Minister for Agriculture and Rural Affairs is to report the findings of the advisory committee to Parliament by 1 December 1995.

(7) The procedure for the calling of meetings of the advisory committee and the conduct of business at those meetings is to be determined by the Minister for Agriculture and Rural Affairs.

This amendment seeks to establish the advisory committee.

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**The Hon. R. S. L. JONES** [12.17 a.m.]: This amendment and the other foreshadowed amendments are the payments to Judas Iscariot for tens of thousands of female kangaroos and their young. Judas Iscariot did a deal with the Government and this is the price.

**Amendment agreed to.**

**Clause as amended agreed to.**

**Schedule 1**

**Reverend the Hon. F. J. NILE** [12.18 a.m.]: I move:

Page 2, Schedule 1, lines 19-22. Omit all words on those lines, insert instead:

**"game animal"** means kangaroo;

As I foreshadowed in my speech at the second reading stage, this amendment will ensure that the bill refers to the human consumption of kangaroo meat as a game animal and does not include any other animal. If the Government proposes to do anything in respect of other animals, it must do so by way of separate legislation.

**The Hon. R. S. L. JONES** [12.19 a.m.]: This is a ridiculous amendment. Why not change the bill so that it simply talks about kangaroos only? Why not amend the words "game animal" throughout the bill? Why not change the reference to "kangaroo"? It is obviously too much trouble to do that.

**Amendment agreed to.**

**Reverend the Hon. F. J. NILE** [12.20 a.m.], by leave: I move the following amendments in globo:

Page 3, Schedule 1, lines 24-26. Omit all words on those lines, insert instead:

- (a1) in the case of meat from a game animal, the animal was taken and killed in accordance with a licence under Part 9 of the National Parks and Wildlife Act 1974 and the carcass was processed at a meat processing plant; or

Page 3, Schedule 1, lines 29-31. Omit all words on those lines, insert instead:

- (a1) in the case of meat from a game animal, the animal was taken and killed in accordance with a licence under Part 9 of the National Parks and Wildlife Act 1974 and the carcass was processed at a meat processing plant; or

Page 3, Schedule 1, lines 34-36. Omit all words on those lines, insert instead:

- (a1) in the case of meat from a game animal, the animal was taken and killed in accordance with a licence under Part 9 of the National Parks and Wildlife Act 1974 and the carcass was processed at a meat processing plant; or

Page 4, Schedule 1, lines 6-8. Omit all words on those lines, insert instead:

- (a1) in the case of meat from a game animal, the animal was taken and killed in accordance with a licence under Part 9 of the National Parks and Wildlife Act 1974 and the carcass was processed at a meat processing plant; or

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I am sure the Hon. R. S. L. Jones will enthusiastically support these amendments because basically they will prevent the widespread slaughter of kangaroos for human consumption. Kangaroo meat for human consumption will be taken from the cull

numbers, which will be controlled by the National Parks and Wildlife Service.

**The Hon. R. J. WEBSTER** (Minister for Planning, and Minister for Housing)  
[12.21 a.m.]: The Government accepts the amendments.

**Amendments agreed to.**

**Schedule as amended agreed to.**

**Bill reported from Committee with amendments and report adopted.**

## **ADJOURNMENT**

**The Hon. R. J. WEBSTER** (Minister for Planning, and Minister for Housing)  
[12.23 a.m.]: I move:

That this House do now adjourn.

## **ASSISTANCE FOR INTELLECTUALLY DISABLED SCHOOL-LEAVERS**

**The Hon. R. D. DYER** [12.23 a.m.]: I wish to draw to the attention of the House and of the Minister for Community Services the plight of a substantial number of parents and other carers of developmentally disabled children who are approaching adulthood or school-leaving age. In July this year I met a number of parents of developmentally disabled children, mainly from the St Ives area in Sydney, whose children have been attending either Sir Eric Woodward School for the Disabled at St Ives, Kooronga School at Epping-Carlingford, or Fisher Road School at Dee Why. These parents told me that people with severe or profound intellectual disabilities are not being catered for under existing programs administered by the Department of Community Services. They cannot be trained, nor are they employable, and they cannot access employment programs. At Kooronga, 23 young adults with profound disabilities will leave school this year without any Commonwealth or State government support. The group I am referring to is totally dependent, and though the drive for normalisation and community living arising out of the Richmond report is suitable for people with moderate or lesser degrees of intellectual disability, the same cannot be said of profoundly or severely affected people.

Since I met the St Ives group I have had a steady stream of correspondence and other approaches from parents and carers of developmentally disabled children or young adults from many areas across the State. A common theme in these approaches is that those parents who have chosen to care for their children at home while sending them during the day to special schools are, in effect, now about to be discriminated against in that priority in placements for community programs is being given to children who have been in an institutional environment. I make a plea to the Minister and the Government to make provision for increased funding grants for the establishment of day programs for the developmentally handicapped, intellectually handicapped and multi-handicapped who are now becoming school-leavers with nowhere to go other than their own homes, and for whom no long-term planning has been undertaken. There needs to be an increased allocation of funds for the purchase of more group homes in each area health service, and there needs to be an allocation of funds for the establishment of more adult training centres.

In particular, there needs to be a policy commitment by the Government to those children who have lived at home with their families and whose parents are now ageing and finding it increasingly difficult to cope. I believe that the group I am referring to must be directly targeted for assistance. Each time an institution closes in response to the Richmond report, the inmates obtain priority for funding and facilities, and the chances of the group to which I am referring obtaining placements appear to diminish further. On a short-term and immediate basis I ask the Minister to establish staying-on programs at special schools, to allocate more staff to existing facilities and to use grounds in some special schools for special programs. Having regard to an undoubted and apparently chronic pattern of underspending within various programs of the Department of Community Services, including the disability area, I do not believe it is asking too much for the Government to direct its early attention to the serious problems and needs of developmentally disabled people and their carers, which I have raised this evening.

### TEACHING PROFESSION

**The Hon. ELISABETH KIRKBY** [12.27 a.m.]: I wish to bring to the attention of the House, in particular the Minister for Education and Youth Affairs and Minister for Employment and Training, a letter I received yesterday from a retired teacher whose daughter has also entered the teaching profession. The letter states:

I note that the Education Dept is going to conduct reviews of all state schools to determine their effectiveness in spending tax monies wisely. I do hope they give some attention to what schools might be doing to encourage effective classroom teaching. I enclose a quote from my daughter who is an Art teacher . . . in a Western Suburbs High School. You might find it useful . . .

The letter from his daughter reads:

Work is good - great in the classroom. Major works are shaping up; the other years are doing great work. I've got a couple of new courses under way and I'm enjoying them. But the more I touch on the changing scene in education (and I'm touching it a lot more, as my profile within the school is rising) the more disturbed I get. Do you know when I went to that in-service the other day delivered by our Cluster Director, on what to do and what not to do when applying for a job and writing a C.V., I was looking at all these examples (on overhead) of successful \_model' and there was not a single reference to classroom practice, abilities to relate to, motivate and extend students - Nothing about skill or talent or commitment as a \_teacher'. It just reinforces my idea that \_leading teachers' and the like only get where they do because they spend all their time writing policies, forming committees and doing [nothing] in the classroom. Classroom skills are obviously not that necessary to "get on". As a result of what is happening in schools is that teachers are taking on all this extra stuff that supposedly counts while still having classroom commitments. The work load increase is immense and eating into our supposed own time so regularly it is just assumed. I can't remember a week when I haven't had a night at school for something and that doesn't count the Wednesday nights I give up every week till 7 p.m. for Year 12. One of the only good things to come out of it was the child minding. It was starting to cost me so much money in babysitting, just attending that I started to protest and it produced results. (School provided child minding services).

I think that is what the Hon. R. D. Dyer was referring to earlier today. I believe that the statements of this girl are valid, that classroom teaching is not seen to be stressed as much as it should. The letter closes with a comment from her father, who quotes a statement of Gaius Petronius made in A.D. 66. I think it is probably relevant to things that are happening in government all over New South Wales today. He wrote:

We trained hard - but it seemed that every time we were beginning to form up into teams, we would be reorganized. I was to learn later in life that we tend to meet any new situation by reorganizing, and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency and demoralization.

It seems very little has changed since A.D. 66.

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#### **FEDERAL FUNDING OF THE TOBACCO INDUSTRY**

**The Hon. Dr MARLENE GOLDSMITH** [12.31 a.m.]: We are all aware of the vertical fiscal imbalance which allows the Federal Government to collect the lion's share of taxes, while starving the States of funds to provide necessary services, such as hospitals, schools and roads. Nowhere is this imbalance more obvious than in a recent case which has come to my attention. The Federal Government takes and keeps our tax dollars, but what does it spend them on? The Federal Government spends substantial sums of taxpayer dollars on programs to counter the abuse of drugs. In 1992-93, it will spend \$39.2 million on the national drugs strategy. I refer to Federal Budget Paper No. 3, page 80, which refers to the "focus on achieving strategic goals in the areas of tobacco and alcohol abuse and drug crime prevention". I refer to tobacco abuse - I ask honourable members to remember that phrase. What else do we find in the 1992-93 Budget? Page 37 of the Budget Papers shows an allocation of \$1,115,000 for the tobacco industry.

A closer examination of the hearings of Federal Estimates Committee F, page F127, discloses that with this figure the Federal Government was apparently claiming credit for both its own contribution and the industry's development of the tobacco industry. Nevertheless, the bottom line to which the Government finally admitted was that it was contributing \$413,000 to fund research and development in the tobacco industry. We find that the Federal Government is encouraging the tobacco industry with one package of funds, while desperately trying to discourage smoking with another package. All of this money, so lavishly being splashed around in contradictory directions, is our taxes - taxes which are desperately needed, for example, for a State health system which has been progressively squeezed of funds by the Federal Government over the last nine years. Senator Cook's defence of the Keating Government was that tobacco growing is a "very important industry in Australia, and it is an industry with considerable export potential". The 9th October issue of *Australian Medicine* pointed out the moral issue involved when a government funds drug offensive campaigns against tobacco in Australia, while sponsoring the poison's export to less-developed neighbouring countries.

I know that our rural industries are suffering dreadfully under the combined assault of international trade barriers and Federal Labor leading Australia into Australia's worse recession in 60 years. However, as a member of the Standing Committee on Social Issues, when it examined drug abuse among youth, I must express concern about the encouragement of an industry based on a drug as perniciously addictive as nicotine. There is no safe level of use of this drug, and the industry recruits its addicts from our children, as we can see from the statistics at page 32 of the report of the Standing Committee on Social Issues. For example, each day more than 500 Australian schoolchildren smoke their first cigarette; 75 per cent of adults who smoke began when they were adolescents; 33 per cent of current adult smokers began before they were nine years old; and children smoke the most heavily advertised cigarettes, especially those associated with sports sponsorship. Added to the Federal Government's recent backdown

on tobacco sports sponsorship, the insane waste of tax dollars on two contradictory causes is not only gross mismanagement, it is a betrayal of our children.

**Motion agreed to.**

**House adjourned at 12.34 a.m., Thursday.**

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