LEGISLATIVE COUNCIL

Tuesday 13 November 2001

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The President (The Hon. Dr Meredith Burgmann) took the chair at 2.30 p.m.

The President offered the Prayers.

The PRESIDENT: I acknowledge that we are meeting on Eora land.

ASSENT TO BILLS

Assent to the following bills reported:

Police Powers (Vehicles) Amendment Bill
Summary Offences Amendment (Minors in Sex Clubs) and Theatres and Public Halls Repeal Bill
Gaming Machine Tax Bill
Liquor and Registered Clubs Legislation Amendment Bill
Sydney Water Catchment Management Amendment Bill
Conveyancing Amendment (Rule in Pigot's Case) Bill
Co-operatives Legislation Amendment Bill
Land Titles Legislation Amendment Bill
Marine Safety Legislation (Lakes Hume and Mulwala) Bill
Police Service Amendment (Complaints) Bill
Apprenticeship and Traineeship Bill
Harness Racing New South Wales Amendment (Rules) Bill

CRIMES AMENDMENT (GANG AND VEHICLE RELATED OFFENCES) BILL

CEMETERIES LEGISLATION AMENDMENT (UNUSED BURIAL RIGHTS) BILL

CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT BILL

MOTOR TRADE LEGISLATION AMENDMENT BILL

NATIONAL PARKS AND WILDLIFE AMENDMENT (TRANSFER OF SPECIAL AREAS) BILL

COURTS LEGISLATION AMENDMENT BILL

JUSTICE LEGISLATION AMENDMENT (NON-ASSOCIATION AND PLACE RESTRICTION) BILL

Bills received.

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. Michael Egan agreed to:

That the bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages, and the second reading of the bills stand as orders of the day for a later hour of the sitting.

Bills read a first time.

CONSUMER, TRADER AND TENANCY TRIBUNAL BILL

Message received from the Legislative Assembly agreeing to the Legislative Council's amendments.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President, pursuant to the Independent Commission Against Corruption Act 1988, announced the receipt of the Annual Report of the Independent Commission Against Corruption for the year ended 30 June 2001, received by her out of session.

The President reported that she had authorised that the report be made public.

OFFICE OF THE CHILDREN'S GUARDIAN

Report

The President, in accordance with the Children and Young Persons (Care and Protection) Act 1998, announced the receipt of the report of the New South Wales Office of the Children's Guardian for the period 13 December 2000 to 30 June 2001, received by her out of session.

The President, reported that she had authorised that the report be made public.

POLICE INTEGRITY COMMISSION

Report

The President, in accordance with the Police Integrity Commission Act 1996, announced the receipt of the Annual Report of the Police Integrity Commission for the year ended 30 June 2001, received by her out of session.

The President reported that she had authorised that the report be made public.

CHILD DEATH REVIEW TEAM

Report

The President, in accordance with the Children (Care and Protection) Act 1987, announced the receipt of the Annual Report of the New South Wales Child Death Review Team for the year ended 30 June 2001, received by her out of session.

The President reported that she had authorised that the report be made public.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE

Report

The President, in accordance with the Commission for Children and Young People Act 1988, announced the receipt of the Annual Report of the Commission for Children and Young People for the year ended 30 June 2001, received by her out of session.

The President reported that she had authorised that the report be made public.

WELLINGTON LOCAL ABORIGINAL LAND COUNCIL

Tabling of Documents

Motion by the Hon. Richard Jones agreed to:

1. That in view of the report of the Independent Legal Arbiter, Sir Laurence Street, dated 17 October 2001, on the disputed claim of privilege on papers on the Wellington Local Aboriginal Land Council, this House orders that the documents considered by the Independent Legal Arbiter not to be privileged be laid upon the table by the Clerk.

2. That, on tabling, the documents are authorised to be published.

TABLING OF PAPERS

The Hon. Carmel Tebbutt tabled the following papers:

(1) Annual Report of the Sydney Aquatic and Athletic Centres for year ended 30 June 2001

(2) Annual Reports (Departments) Act 1985—Reports for year ended 30 June 2001:

Community Relations Commission
Department of Corrective Services
Department of Fair Trading—Volumes 1 and 2
Department of Mineral Resources
Department of Sport and Recreation
Ministry for the Arts

(3) Annual Reports (Statutory Bodies) Act 1984—Reports for year ended 30 June 2001:

Art Gallery of New South Wales
Australian Museum Trust
Centennial Park and Moore Park Trust
Coal Compensation Board
Historic Houses Trust of New South Wales
Independent Pricing and Regulatory Tribunal of New South Wales
Library Council of New South Wales
Mine Subsidence Board
Mines Rescue Board
Motor Vehicle Repair Industry Council
Museum of Applied Arts and Sciences
New South Wales Film and Television Office
New South Wales Institute of Sport
Residential Tribunal
State Records Authority of New South Wales
State Sports Centre Trust
Sydney Opera House Trust

(4) Fair Trading Tribunal Act 1998—Report of Fair Trading Tribunal for year ended 30 June 2001.

Ordered to be printed.

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

Report: Possible Intimidation of Witnesses before General Purpose Standing Committee No. 3 and Unauthorised Disclosure of Committee Evidence

Reverend the Hon. Fred Nile, as Chairman, tabled report No. 13 entitled "Possible intimidation of witnesses before General Purpose Standing Committee No. 3 and unauthorised disclosure of committee evidence", dated November 2001, together with submissions made public.

Ordered to be printed.

Reverend the Hon. FRED NILE [2.39 p.m.], by leave: The current inquiry arose as a result of events which occurred following an in-camera hearing before the Legislative Council's General Purpose Standing Committee [GPSC] No. 3 during its high-profile inquiry into policing at Cabramatta. At the hearing four police witnesses tendered a written submission to the committee. The submission was wide ranging and addressed at one point certain allegations concerning the recruitment of students from local schools by criminals. The day after the hearing details of the submission were published in a newspaper. Following the publication of this evidence the four officers each received what they believed to be a "directive memorandum" from their commanding officer requiring them to provide details of any information they had concerning the published allegation.

The committee made a special report to the House concerning both the publication of the confidential evidence by the newspaper and the actions of the Police Service with regard to the four officers. It identified both matters as possible breaches of parliamentary privilege. In relation to the first matter, the special report concluded that the unauthorised publication was of concern, but expressed the view that further inquiry would not be able to identify the source of the disclosure. In relation to the second matter, the report concluded that the treatment of the four officers was sufficiently serious and warranted referral to the committee for investigation. The Legislative Council subsequently referred the special report to the committee for inquiry and report.

In the course of its inquiry the committee heard evidence from a range of officers from various levels within the Police Service, including three of the four officers who had received the memoranda, the head of the service's legal branch, and the two senior officers involved in issuing the memoranda, Assistant Commissioner Clive Small and Superintendent Frank Hansen. The committee also received a number of written submissions, including submissions from all the witnesses who appeared before it. Having considered all the evidence, the committee has concluded that the issuing of the memoranda resulted in intimidation of the four officers, and that this had the potential to obstruct General Purpose Standing Committee No. 3 in the performance of its functions by discouraging the officers concerned, and other potential witnesses, from appearing before GPSC No. 3 in future in relation to the Cabramatta inquiry or any future parliamentary inquiries.

However, the committee has accepted that such a result was not intended by Mr Small or Mr Hansen; that the allegations made before GPSC No. 3 were serious and that both senior officers believed they had been acting in the best interests of the people of Cabramatta. The committee has therefore found that a contempt, though unintended, was committed in relation to the actions of Mr Small and Mr Hansen, but recommends that no action be taken against these officers in the circumstances. The committee's report also includes a number of recommendations designed to ensure that senior officers of the Police Service are clearly aware of their obligations relating to parliamentary committees and parliamentary privilege in future, and to strengthen the protection available to police officers who give evidence to parliamentary inquiries.

Those recommendations include the development of clear procedures for management when dealing with officers who give evidence to parliamentary committees, and certain amendments to the Police Service Act 1990. The committee members believe that those recommendations, and the report as a whole, send a clear message to management within the Police Service and, by extension, to senior officers in all government agencies that they must be clearly aware of their obligations in relation to officers who give evidence to parliamentary inquiries, and that any action which is found to be intimidation or harassment of an officer in respect of such evidence is unacceptable and will be treated most seriously if referred to the committee.

The final section of the report deals with the unauthorised disclosure of committee evidence, which, as noted earlier, is raised by the special report of GPSC No. 3. While accepting that further inquiry in relation to this particular case would not be worthwhile, the committee believes that appropriate guidelines should be developed for dealing with unauthorised disclosures in future. Therefore, the committee recommends that an inquiry be referred to it by the House in relation to this issue. On behalf of the committee I thank all those who participated in the inquiry. I thank members of the committee for their co-operation and dedication throughout this inquiry. I thank the Deputy Clerk and the Clerk to the Committee, Ms Lynn Lovelock, and the Clerk of the Parliaments, Mr John Evans, for their advice and assistance in relation to the conduct of the inquiry and in the preparation of the report. I also thank the Senior Projects Officer, Ms Velia Mignacca, and the Committee Officer, Ms Janet Williams, for their valuable efforts.

SELECT COMMITTEE ON THE INCREASE IN PRISONER POPULATION

Final Report

The Hon. John Ryan, as Chairman, tabled the Final Report of the committee, dated November 2001, together with submissions, transcript of evidence, tabled documents and correspondence made public.

Ordered to be printed.

PETITIONS

Council Pounds Animal Protection

Petition praying that the House introduce legislation to ensure that high standards of care are provided for all animals held in council pounds, received from **the Hon. Richard Jones**.

Wildlife as Pets

Petition praying that the House rejects any proposal to legalise the keeping of native wildlife as pets, received from **the Hon. Richard Jones**.

Circus Animals

Petition praying for opposition to the suffering of wild animals and their use in circuses, received from **the Hon. Richard Jones**.

[*During Notices of Motions*]

The Hon. Dr Brian Pezzutti: Point of order: Madam President, I draw your attention to the flagrant reading of a newspaper by the Hon. Jan Burnswoods, in contempt of the standing orders of this House.

The Hon. Michael Egan: To the point of order: Members are entitled to bring newspapers into the House and to read them when they intend to use them for the purposes of parliamentary debate. I have no doubt that the Hon. Jan Burnswoods is reading a newspaper—she is reading the *Catholic Weekly*—to assist her in debate. If she were reading the *Rock*, the Opposition would not object.

The PRESIDENT: Order! Although members are permitted to read from newspapers when contributing to debate, they are not permitted to read them in the Chamber for some time in advance of making a contribution to debate.

BUSINESS OF THE HOUSE

Withdrawal of Business

Private Members' Business Item No. 99 outside the Order of Precedence withdrawn by the Hon. Richard Jones.

CRIMES AMENDMENT (GANG AND VEHICLE RELATED OFFENCES) BILL

Second Reading

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [2.55 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the *Crimes Amendment (Gang and Vehicle Related Offences) Bill* 2001.

The Bill is a multi-faceted approach to the issue of gang related criminal activity and builds upon the legislation recently debated in this place relating to gang sexual assaults and other police and crime prevention initiatives of the Government.

This Bill introduces more severe penalties for committing certain existing offences when they are committed in company—that is, with one or more additional persons.

It also reforms the law of kidnapping, increasing the penalties when a person is kidnapped by one or more persons; increases penalties for offences relating to car re-birthing; and creates the new offences of car jacking.

The Bill also deals with threatening and intimidating persons to influence them to withhold material from police, and recruiting children to engage in criminal activity.

As the Premier foreshadowed some weeks ago, this Government is serious about tackling gang crime. This Bill is part of the raft of legislative amendments which specifically targets gang related crime in New South Wales.

I am pleased to announce that the first part of this most recent legislative reform, the *Crimes Amendment (Aggravated Sexual Assault in Company) Act 2001* commenced on 1 October 2001.

The Bill before us now, the *Crimes Amendment (Gang and Vehicle Related Offences) Bill 2001*, seeks to further the aims of the Government to better protect the citizens of this State from cowardly attacks by gangs.

By introducing this Bill, the Government sends a clear message that such abhorrent criminal behaviour will not be tolerated.

The reforms will add to the efficacy of criminal law enforcement in relation to criminal gang activity in New South Wales. They are a product of the Government's commitment to deal with organised gang activity.

It is clear that the reported incidence of gang related offences is increasing as are community concerns about these types of crimes. These reforms are aimed at pro-actively limiting the expansion of this type of activity. The reforms are wide ranging.

IN COMPANY AMENDMENTS

The first major component of this Bill is the introduction of the concept of 'in company' to an extended range of offences which are gang specific.

The criminal law recognises that a crime committed by two or more people together is more serious than when an offender acts alone.

Specifically, the law recognises that offenders acting 'in company' with others may constitute an aggravated version of the offence. This is currently the case with the offences of robbery, break and enter and sexual assault.

The term "in company" is not defined in legislation but exists as a legal principle at common law. It refers to situations where one person participates in an offence with another person or persons.

Item [1] of the Bill increases the penalty for discharging loaded firearms with intent to do grievous bodily harm from 14 years to 20 years if the offence is committed in company. (Section 33A)

Item [2] increases the penalty for using or possessing a weapon to resist arrest or commit an indictable offence from 12 years to 15 years if the offence is committed in company. (Section 33B)

Item [3] increases the penalty for maliciously wounding or inflicting grievous bodily harm from 7 years to 10 years if the offence is committed in company. (Section 35)

Item [4] increases the penalty for assault occasioning actual bodily harm from 5 years to 7 years if the offence is committed in company. (Section 59)

Item [7] increases the penalty for demanding property with intent to steal from 10 years to 14 years if the offence is committed in company. (Section 99)

Extending the range of offences which 'in company' will be attached to tackles criminal gang issues and will strengthen the existing developed and settled law. By increasing the maximum penalty for these type of offences, a clear message is sent to the judiciary that the community expects offenders who commit these offences to be dealt with more severely.

KIDNAPPING AMENDMENTS

The second important legislative reform is related to the offence of kidnapping. The Bill introduces "in company" as an aggravated element of kidnapping and makes other reforms to the offence of kidnapping.

The offence of kidnapping is contained in section 90A of the *Crimes Act 1900*. The offence provides that a person is liable to 20 years imprisonment if they detain a person for advantage, or 14 years if they prove that the person taken away was liberated without having sustained any substantial injury.

The unique structure of this provision places the onus on the accused to prove that no substantial injury was caused to the victim before the lower maximum penalty can be applied. It effectively reverses the traditional structure of offences in aggravation.

The structure of this offence has come under judicial scrutiny at various times in the past, notably in *Rowe* (1996) 89 A Crim R 467 by the former Chief Judge at Common Law, Justice Hunt, where the confusion over which offence and maximum penalty applied in certain situations was discussed.

A number of cases under section 90A are appealed on the issue of whether the correct maximum penalty was applied, given the injuries in the particular case. The unclear definition of "substantial injury" contributes to the lack of certainty as to which maximum penalty should apply. These issues are further confused when there are co-offenders who are sentenced separately.

"Substantial injury" has been variously defined as "more than minor or slight, but that it need not be of the serious kind which would constitute it being grievous bodily harm" (*Hudson* (1985) 8 FCR 228 at 242-243); and "less than total but more than trivial or minimal" (*Rowe* at 471-472 cf s 23A of the C*rimes Act 1900*).

Even where the assault produces minor physical consequences, the court has held that the injury "may well become substantial where the circumstances in which it was inflicted … greatly affect its seriousness" (*Rowe* at 472).

Potential residual psychiatric conditions resulting not just from the actual attack and resulting injuries but also from the way in which they were inflicted upon the victim have also been taken into account by the court (R *v Herceg* [2001] NSWCCA 242).

Section 90A was inserted into the *Crimes Act 1900* in 1961. Its structure, while unique, has proven to be confusing and uncertain.

The offence, and others contained within that Division of the *Crimes Act*, are ripe for reform. In order not to deviate from the gangs focus in this Bill, the wider reforms to the Division will be progressed later this session.

Item [5] reverses the structure of the offence of kidnapping and introduces a three staged aggravated offence of kidnapping.

The new proposed section 85A will replace section 90A of the *Crimes Act*. The basic offence of kidnapping where a person takes or detains another person for advantage without their consent with the intention of holding that person to ransom or obtaining any other advantage, will carry a maximum penalty of 14 years. (Section 85A(1))

An aggravated version of the offence is created in section 85A(2). Where a person commits an offence under section 85A(1) in company; or a person commits an offence under section 85A(1) and at the time of the offence, or immediately before or after the commission of the offence, actual bodily harm is occasioned to the victim, a penalty of 20 years will apply.

This provision covers circumstances not only when the offender assaults the victim, but also where the victim sustains an injury as a result of an escape attempt. This is consistent with the current application of the 'substantial injury' test.

The offence replaces the 'substantial injury' test with 'occasioning actual bodily harm' as an element of aggravation. The latter term is a settled and well defined term of the criminal law and should clarify confusion over whether an injury was substantial or not.

A specially aggravated version of the offence is created in section 85A(3) which combines both aggravated elements of the offence. Where a person commits an offence under section 85A(1) in company and at the time of the offence, or immediately before or after the commission of the offence, actual bodily harm is occasioned to the victim, a penalty of 25 years will apply.

The Bill includes, at section 85A(4), a system of statutory alternative verdicts which will ensure that if the jury is not satisfied that the offence of aggravated kidnapping or specially aggravated kidnapping has been proven, a verdict of guilty may be returned if they are satisfied that a lesser offence has been proven.

In short, the present Bill reforms the law of kidnapping by:

1) introducing the concept of 'in company' to the offence as an element of aggravation;
2) creating a three tiered aggravation structure with higher penalties;
3) re-establishing the traditional onus so that the prosecution must prove the matters in aggravation;
4) replacing the 'substantial injury' test with 'occasioning actual bodily harm' as an element of aggravation; and
5) updating the antiquated language of the offence.

These reforms will assist in the prosecution of the offence by:

- providing more certainty as to which maximum penalty applies;
- providing a more commonly understood definition of injury; and
- sending a clear message to offenders that offences committed by more than one person will be treated more seriously by the courts.

CAR RE-BIRTHING AMENDMENTS

The third major component of this Bill targets the re-birthing of cars.

The organised, systemic and sophisticated illegal trade in stolen motor vehicles and stolen motor vehicle parts is an increasing problem.

Approximately 130,000 cars were stolen in Australia last year. Over the last 7 years there has been a 17% increase in motor vehicle theft. On the basis of these statistics, Australia is thought to have the second highest number of vehicle thefts per capita in the world.

The New South Wales Crime Commission estimates the incidence of professional car theft and re-birthing is growing at a rate of 10% per annum.

This insidious trade no longer involves the simple theft of motor vehicles. Sophisticated and organised syndicates are involved in the "re-birthing" of cars, where an engine from one car is used as the basis for the creation of an entirely new vehicle.

This re-birthing process makes detection, and consequently deterrence, more difficult.

The illegal trade in motor vehicles and parts has a significant impact on the community. These are not "victimless" crimes. Insurance premiums are paid by the community and the impact of theft on premiums is passed on to all of us. Motor vehicles are often the second most expensive item a person owns in their lifetime and are frequently a source of pride to their lawful owners.

The Government now moves to make the law reflect the seriousness with which such offences are viewed by expanding the definition of car stealing and increasing the penalty in relation to receiving stolen car parts, or possessing car parts unlawfully.

In an effort to increase the ability of police to catch professional car thieves the definition of "motor vehicle" under section 154AA has been expanded in items [8] and [9] to include not only the theft of a car, but also theft of a motor or theft of an identification plate.

This is in recognition of the fact that the theft of such vehicle parts is an essential component to the re-birthing of vehicles.

Previously, theft of such car parts would be dealt with under the general larceny provisions which have a maximum penalty of 5 years. They are now able to be dealt with as general car theft offences, carrying a maximum penalty of 10 years.

The penalties for receiving stolen goods and unlawfully possessing goods—also known as 'goods in custody'—will increase where the goods stolen are cars or car parts.

The current maximum penalty for receiving is 10 years imprisonment. Item [11] increases this to 12 years if the goods stolen are cars or car parts.

The current maximum penalty for goods in custody is 6 months imprisonment or a fine of $550. Item [17] increases this to 1 year or $1,100 if the goods in custody are cars or car parts.

These amendments demonstrate the Government's commitment to halting the illegal trade in motor vehicles and motor vehicle parts. They are intended to target and affect those persons who are professional criminals.

They are by no means the only strategies in place to deal with this problem. My learned colleague, the Minister for Fair Trading, will also be introducing substantial amendments to the *Motor Dealers Act* and *Motor Vehicle Repairs Act* to target this type of crime. Honourable Members may also have heard in the media about the introduction of 'micro dot' technology. Industry and the Government will continue to examine and explore ways to improve our response to this type of crime.

In the meantime, the amendments in this Bill are a useful addition to the armoury of police in the pursuit of the professional criminal.

NEW OFFENCES: CAR JACKING; THREATENING OR INTIMIDATING WITNESSES; RECRUITMENT

The important fourth arm of this Bill is to introduce the new offences of car jacking; threatening or intimidating persons to withhold information; and recruitment of children into criminal activity.

Item [10] introduces the new offence of "car jacking". Car jacking targets persons who unlawfully take a vehicle by force or unlawfully take a vehicle by detaining the person who is lawfully in the vehicle.

A maximum penalty of 10 years imprisonment is provided. This rises to 14 years in aggravating circumstances which include where the offender is in company with another person, the offender is armed with an offensive weapon or the offender maliciously inflicts actual bodily harm on a person.

The new offence needs to be understood in light of the existing laws relating to car theft and kidnapping. It should be remembered that there are already comprehensive and adequate laws dealing with robbery, assaults and kidnapping.

It is not the intention of this new offence to override the existing and adequate laws. Rather it is intended that this new offence will apply to circumstances not already covered by a specific offence. In short, it is an attempt to fill the gap between robbery and larceny.

The new offence will provide police with a simple and straightforward offence. It will apply in circumstances which involve actions more serious than joy riding, but not as serious as robbery or kidnapping. In addition, it will apply irrespective of whether the defendant has an intention to permanently deprive the owner of his or her vehicle.

Item [13] inserts section 315A into the *Crimes Act*. This is a new offence which makes it illegal to threaten or cause injury to any person to influence them not to provide information to the police about an offence. A maximum penalty of 7 years imprisonment will apply in such cases.

Section 322 of the C*rimes Act 1900* provides for an offence of threatening or intimidating judges, witnesses or jurors. Section 323 provides for an offence of influencing witnesses or jurors. These sections cover the intimidation or influencing of a person who has already provided information to police and is now a witness in a proceeding.

The new offence of section 315A will cover the period before the person has provided information to police and become a witness for the purpose of sections 322 and 323.

Attempts to interfere with potential witnesses in criminal matters strike at the very heart of the criminal justice system. The introduction of this offence demonstrates the seriousness with which this Government regards such attempts.

Item [15] inserts section 351A in the *Crimes Act* containing a new offence of recruiting children to engage in criminal activity. The offence will carry a maximum penalty of 10 years imprisonment.

As the Premier has stated previously, one of the most insidious organised gang activities reported in the media has been the targeting of children to commit serious crimes. The use of children as drug couriers is just one example. This type of activity may well be the start of a career in crime and gang membership.

The new offence of recruiting children for the purposes of committing a criminal act clearly targets those adult offenders who prey upon children and initiate them into gang culture at an early age.

These new offences together with the other arms of reform contained in this Bill constitute a valuable addition to the protection of citizens of this state and send a clear message that the Government will be vigilant about stamping out gang activity wherever it flourishes.

I commend the Bill to the House.

The Hon. GREG PEARCE [2.55 p.m.]: The Opposition does not oppose the bill. However, it indicated in the other place that it may move amendments in Committee. As usual in debates on these types of bills the Government does not have anything to say when the Premier is not appearing before the television cameras trying to grab the evening news, or looking for a spot on radio or in the newspapers. As we have come to realise with the continual introduction of new bills supposedly dealing with various serious gang and crime problems in this State, the Government's approach is limited to introducing legislation that purportedly increases maximum penalties. It does not attempt to deal with the real issues leading to crime and the increases in crime in the community. At no stage has the Government attempted to deal with the major problem of underresourcing of the Police Service, which is appallingly managed to the point where we now wait for the latest revelations from the media as to crime and corruption in which police are engaged.

When the Attorney General introduced this bill in the other place he talked about a multifaceted approach to gang-related criminal activity. There is no such approach. Instead, the only action of the

Government is to introduce bill after bill purporting to increase penalties for various crimes, redefine crimes and, in some cases—as occurs with this bill—introduce new crimes. In this case the Premier was not even consistent in the increased penalty he announced for one of the offences. The Attorney said that the Premier had foreshadowed that the Government was taking gang crime seriously and had done so a couple of weeks ago. The Premier was aware of gang problems in our community and promised action well before he was elected. Now—despite 6½ long years—the Carr Labor Government has failed to stem the tide of gang-related activity and crime, which is a deep and abiding concern throughout the community.

In 1994 the Premier promised that he would be tough on crime and the causes of crime. At that time he announced that he had a grand plan to fight gang-related violence. He stereotyped gang members as "kids wearing baseball caps back-to-front"—all honourable members would remember that that was his view. How wrong that was! We all now know, and have known for some time—as have the police—that the gangs and the problems that we face are much more insidious. The Premier's efforts have been limited to media stunts in an attempt to gain front-page newspaper and television headlines.

In 1994 Mr Carr's "tough on crime, tough on the causes of crime" policy was supposed to have a fourfold effect. First, his promise was supposed to rid our streets and public transport of gang crime. We all know that that has not happened. Second, Mr Carr promised to reduce the community's fear of crime. One has only to listen to the people of Auburn, Cabramatta, Roseville, Newcastle or anywhere else in this State to learn that they are truly concerned about crime and their safety in their homes. Third, Mr Carr said in 1994 that he would ensure that violent gang activity received harsh punishment. I will turn to that issue in a moment. The record shows that, notwithstanding the string of legislation that has supposedly introduced greater maximum penalties for gang crimes, no harsh punishment has been meted out to those found guilty of violent gang-related offences.

Finally, in 1994 Mr Carr promised that his "tough on crime, tough on the causes of crime" policy would discourage young people from joining gangs. Now in November 2001 we have finally witnessed a belated and somewhat pathetic attempt by the Government to do something to discourage the recruitment of young people into gangs. I will not reiterate the evidence and findings of the Cabramatta inquiry, but it revealed clearly that the recruitment of young people into the milieu of gang activity and drug-related crime is a real evil in today's society.

This bill increases the penalties for a number of different crimes and addresses several other issues. When introducing the legislation into the other place the Attorney General spoke of proactively limiting the expansion of this type of criminal activity. We have not seen anything from this Government that could be called "proactively limiting criminal activity". The Government's approach to crime and policing involves promoting the two misfits that it has put in charge of our Police Service: Benny and the Jets. Benny is Benny Whelan, the Minister for Police; the Jets is Commissioner Ryan, who never misses an opportunity to fly off in a jet. The community is paying a significant price for the decision to allow Benny and the Jets to remain in charge.

I turn now to the specifics of the legislation. New section 33B provides for the use or possession of a weapon to resist arrest. The shadow Attorney General, the honourable member for Gosford, Mr Hartcher, spoke to the bill in the other place. He is an excellent member of Parliament who contributed enormously to the great Coalition victory on Saturday by helping to return the seats of Robertson, Paterson and Dobell to the Coalition. The Leader of the Opposition in this place also made great inroads in the Central Coast area on behalf of the Coalition.

The Hon. Carmel Tebbutt: You won't have the *Tampa* in a year's time.

The Hon. GREG PEARCE: But we will still have crime, gangs and drugs, and, regrettably, we will probably still have Benny and the Jets. In speaking to the bill in the other place, Mr Hartcher took the opportunity to cite some statistics to demonstrate the paltry results gained from increasing maximum penalties but doing nothing to address the causes of crime. I refer honourable members to that excellent speech. I will not repeat the various examples he gave regarding a series of offences, but honourable members would be well advised to read his speech and to learn what happens when a Government does nothing but increase maximum penalties.

For example, the honourable member for Gosford reported that, of the 284 cases of malicious wounding causing grievous bodily harm heard in the higher courts between January 1994 and December 2000,

in only 64 per cent of cases was a full prison sentence handed down. Of the 64 per cent, only one offender received the maximum sentence, 63 per cent received maximum sentences of three years or less and 67 per cent received minimum sentences of 18 months or less. The record shows that the courts are not imposing maximum penalties that generally accord with sensible sentencing criteria. Simply extending maximum penalties is not addressing increasing crime levels.

We have heard a great deal about the war on gangs and attempts to deal with gang-related crime, but what has actually happened? Forty or more shootings and murders in 1999 prompted the commissioning of the Cook report, which has been the subject of various comments and discussion. The Government has been on notice for a considerable time to do something about these problems. What has it done? I will report to the House the efforts of the Federal member for Bradfield, Dr Brendan Nelson, who did a sterling job as Parliamentary Secretary to the Minister for Defence in the Commonwealth Parliament. Dr Nelson conducted a survey of problems on North Shore railway stations, and it revealed that gangs are creating an atmosphere of fear and insecurity concerning safety in public places.

Some 1,187 young people responded to the survey, of whom 96 per cent said that drugs were sold near or at stations, 18 per cent said they had personally witnessed an assault on the railways, 76 per cent said they were frightened by what they had seen on the railways, and 77 per cent said there were problems on the trains. Criminal activity, whether by youth gangs or organised criminal gangs, is becoming more specific. There have been more than two dozen shootings in Sydney since Christmas 2000. In February this year more than 100 youths were searched for knives and other weapons following a police raid in the city to thwart a suspected gang fight. In January Police Commissioner Ryan warned that Russian and Asian organised crime gangs were targeting Sydney after the Olympics.

In April the *Daily Telegraph* reported that armed gangs were robbing hotels across Sydney, partly because of the booming gaming industry. So in 1999 and 2000 and at the beginning of this year we had ample evidence of gang activity, of the failure of police to deal with those gangs, and of the urgent need for the Government to provide resources for police and to take other steps to deal with these problems.

What is the result? Almost at the end of 2001 we have yet another bill that extends the maximum penalties for some criminal offences. Of course, the Premier used this bill to try to win the media war that he likes to run when purportedly dealing with some serious community issues. On 4 September the Premier was at his usual theatrical best, but was limited in what he wanted to do when he said, "We make no apology for criticising judges about imposing light sentences, or for going to the Court of Criminal Appeal for a guideline judgment on gang rape. Our aim is simple: longer sentences for this crime." His rhetoric and his cure for these crimes involve longer sentences. All we hear is "longer sentences, longer sentences". That is not good enough; it will do nothing to reduce the incidence of these crimes.

One significant problem that is causing the community considerable concern—which the Government attempts to address in this legislation—is the rebirthing of cars. The incidence of car theft is quite frightening. The Attorney General said in the other place in his second reading speech that approximately 130,000 cars were stolen in Australia last year. He said, "Over the past seven years there has been a 70 per cent increase in motor vehicle theft. On the basis of these statistics, Australia is thought to have the second highest number of vehicle thefts per capita in the world." New South Wales crime statistics for 2000 show that motor vehicle theft increased from 47,093 in 1995 to 52,279 in 2000, and that theft from motor vehicles increased from 55,896 in 1995 to 89,576 in 2000—a significant increase.

Many honourable members, their families and friends would have first-hand experience of this terrible crime of theft from motor vehicles. You have only to walk along Hospital Road any day or night to see smashed windscreens. You can walk around many areas of Sydney—near St Mary's Cathedral, for example—and see cars with smashed windows. Other than the obvious increase in drug problems and the number of homeless people and others who resort to what are easy pickings by breaking into cars, one must ask why there is such an epidemic of car theft and theft from cars. We all are aware of this insidious trade of rebirthing motor vehicles.

As the Attorney said in his speech, the New South Wales Crime Commission estimates that the incidence of professional car theft and rebirthing is growing at a rate of 10 per cent per annum. Many cars are stolen and rebirthed in a professional exercise. And what is happening to prevent it? Pretty much nothing. Unless the Crime Commission or a Federal authority sets up a specific task force to investigate it, nothing will happen. This illegal industry is accepted and it continues to operate. One reason that nothing much is done about curtailing theft from motor vehicles is the number of poorly thought out, and therefore failed, so-called

initiatives by the Police Service that were supposedly designed to improve efficiency and fight corruption and crime by introducing better management into the Police Service. On the whole they have been appalling failures.

One such failure was the introduction of the police assistance line. That may have been a good idea—we all agree with removing administrative and bureaucratic secretarial-type work from the responsibility of trained police—but what happened, particularly with motor vehicle offences, is that Commissioner Ryan effectively removed any deterrence for this offence, certainly at a local level. When you ring the police assistance line you are merely given a number to use for your insurance claim. If any police officer is actually interested in what is happening with car thefts he can look up the police computer and find thousands upon thousands of entries—but nothing is done about reducing the incidence of that offence.

The Government's response to these issues that affect people at all levels is minimal to say the least, and it is not good. Simply introducing a new offence or increasing the penalty for an existing offence will do nothing unless adequate resources are provided to enforce new legislation as well as the current law. The bill introduces other important provisions to prevent the intimidation of those who have information and would otherwise give it to the police. Of course, that sort of provision is to be applauded and it complements existing provisions of the Crimes Act that make it an offence to threaten or intimidate judges, witnesses and jurors. Certainly we are pleased to see that provision included.

The bill creates the offence of recruiting young people into gangs. On many occasions in the media the Premier has been beating up his commitment to do something about this problem. He has been telling us how insidious it is for organised gangs to coerce children into committing serious crime or use children as drug couriers and in drug houses and the like. Yet when those sorts of activities were disclosed by, amongst other things, the Cabramatta inquiry, the Government's response was to deny they existed and to try to shut down any publicity or investigation about them.

This legislation goes nowhere near addressing those sorts of problems. It is certainly not to be opposed, but it gives very little weight to the Government's words about these significant and worrying problems. If the Government is ever to get serious about drugs, gang-related activity, car theft, breaking into cars, and preying on young people and coercing them into the gang, drug and crime milieu it must do much more than introduce this type of legislation. It does nothing more than give the Premier an opportunity to grab media headlines and put a range of stronger maximum penalties on the books, as they say. The legislation does nothing about addressing the real problems.

Reverend the Hon. FRED NILE [3.20 p.m.]: The Christian Democratic Party supports the Crimes Amendment (Gang and Vehicle Related Offences) Bill, which will strengthen law-enforcement in relation to criminal gang-related activity in New South Wales, which, as all members of the House know, has been of great concern to the community. Perhaps one criticism that could be levelled at the Government is that it has taken too long to introduce this legislation. Because criminals change their methods and use different tactics to evade existing laws, the on-going war against criminal, gang-related activity requires constant monitoring and updating of laws to provide police with the power to carry out their duties and ensure that they do not lag behind the criminal world.

Drug dealers deliberately use children of 10 or 11 years because they are under the age at which they can be criminally prosecuted. They believe that using children of such tender years will protect them from detection and enable them to continue their activities behind the scenes. The legislation creates a new offence of recruiting children to commit indictable offences, with a penalty of 10 years imprisonment. The law often provides what seems to be a satisfactory deterrent, but judges who impose minor penalties make a mockery of the law and of our efforts to attack organised crime and, hopefully, reduce it.

I note recent negative statements by people working in the Cabramatta area about the war on drugs. They indicated that not much has changed. They said that whereas previously they were solicited within 30 seconds of arriving at Cabramatta station, it now takes about 45 seconds. They said that people pushing drugs continue to be active in Cabramatta and around the railway station. The drug problem in Cabramatta continues to pose a serious challenge to the Government and the New South Wales Police Service. General Purpose Standing Committee No. 3 debated whether the police have the power and, more importantly, the encouragement to rid Cabramatta of this problem. Police officers were issued with a list of six priorities, but drugs were not on it.

There was great concern and even puzzlement as to how that could happen, when drugs are such a serious problem in our society and are linked to so many other types of crime. The Commissioner of Police said

that drugs are related to 80 per cent of crime in this State. Police officers obviously have to deal with all sorts of matters, but drugs must be high on the list of priorities. If we can beat the drug dealers, perhaps the priorities can be reorganised; but at this stage fighting the drug problem should be a high priority.

We support the new offence of car-jacking, which has become a serious problem in the past few years. I have had to advise women who drive vehicles on their own to ensure they keep their windows wound up and their doors locked to guard against car-jacking or aggravated car-jacking. But if cars are not airconditioned some drivers may drive with their windows down. People should not drive with the fear that if they stop at the lights someone might try to hijack their vehicle. We hope that the penalty of 10 years imprisonment, rising to 14 years in aggravated circumstances, will deter people from committing this crime. Honourable members have referred to people gaining entry to cars by smashing a window and opening the door, and stealing them in seconds. These vehicles are then rebirthed.

It may be necessary to consider introducing a penalty for carrying an item that could be used to smash car windows. Apparently some offenders carry a small hammer. It may be necessary to provide police with the power to take action against a person carrying a hammer on a public street, as distinct from a builder carrying a hammer on a building site. If people were walking down Oxford street or another of the city streets with a hammer concealed on their body it would seem obvious that they were carrying it for the purpose of smashing car windows and stealing cars.

Knives and other types of implements are already covered in the legislation, and we support the amendment to the Crimes Act 1900 to extend the "in company" concept to other gang-related offences. An aggravated version of the offence is committed if a person, in company with others, commits offences such as robbery, break and enter, and sexual assault. "In company" exists as a legal principle at common law, and the bill will introduce that concept to an extended range of offences that are gang specific, such as kidnapping, assault, firearms offences, and demanding money with menaces. Extending the concept of "in company" will enable police to tackle criminal gang issues and strengthen existing developed and settled law.

The legislation will create a new offence under the Crimes Act 1900 of threatening or intimidating persons to not provide information to police. I know this matter has caused police great concern, particularly with ethnic crime and ethnic communities. Sometimes, because they are threatened, informants or witnesses from those communities do not give police their full co-operation. That offence was recommended by police to cover the period before the relevant person has provided information to police and become a witness. It would apply when a person intimidates or threatens another person to prevent or discourage that person from providing information to police. The offence will carry a penalty of seven years imprisonment.

There is something of a cultural problem involved. Many migrants have come from countries where community police have been corrupt. Honourable members will be aware that there have been reports of corrupt police officers in some Asian countries, for example. Many have come from countries where police are very authoritarian and not only arrest people for crimes but also arrest them for speaking out against the government. That used to happen—and may still be happening—in Vietnam, for example. Many migrants from that country have a suspicion of police and do not normally enthusiastically co-operate with police.

We hope that, in addition to this proposed legislation, there will be further community consultation with and encouragement given to community groups, particularly those in the Cabramatta, Lakemba and Bankstown areas; and that there will be further efforts by police and by the Government, through the Community Relations Commission and others, to put at rest any concerns that these people may have. They need to be assured that in this nation police assist all residents, irrespective of their cultural or religious backgrounds. Equally they need to understand that they should give full co-operation to police who are acting on their behalf. That is why our police force is called the New South Wales Police Service. There does appear to be a greater need for education and for conveying those concepts to all community groups in our State, particularly in the suburbs of Sydney I mentioned. We support the bill.

The Hon. HELEN SHAM-HO [3.31 p.m.]: I support the Crimes Amendment (Gang and Vehicle Related Offences) Bill, which seeks to amend the Crimes Act 1900 by extending the concept of crimes committed in company—that is, with one or more persons—to the offences of kidnapping, assault, firearm offences and demand money with menace. In doing so the bill creates an aggravated version of these often gang-specific criminal offences with harsher penalties than those that apply when an offender acts alone. The bill also seeks to introduce a number of new criminal offences, including recruiting children to commit indictable offences, car-jacking, car rebirthing, and threatening or intimidating persons so as to prevent or discourage them from providing information to police. Taken together, these reforms are designed to limit the formation of gangs and reduce the extent of gang-related crime in New South Wales.

The bill forms another part of the Government's tough law and order approach to gang-related activity in New South Wales. As honourable members will recall, on 4 September the Premier announced a package of reforms specifically designed to combat gang-related crime. We have already seen the first part of the anti-gang strategy in the form of the Crimes Amendment (Aggravated Sexual Assault in Company) Act, which created a new offence of aggravated sexual assault in company or gang-rape with a penalty of life imprisonment. The catalyst for this new anti-gang regime was, of course, the highly publicised sexual assault case heard in the District Court in August of this year which involved the gang-rape of two teenage girls.

Following the case a great deal of public, political and media criticism was directed at the relatively short sentences handed down to the two offenders who pleaded guilty to the offence. Public outrage was reignited earlier this month when a fourth offender involved in the assault was sentenced to a maximum of six years and a minimum of four years imprisonment, dating from September last year and to be served in a juvenile detention centre. At the outset I make it clear that I share the community's concern about gang-related violence in this State, and I understand that there is considerable public dissatisfaction with the sentences being handed down by judges and magistrates in relation to violent crimes. However, my concern is that this so-called anti-gang strategy is simply a knee-jerk reaction to the public uproar that surrounded one particular gang-rape case.

I have difficulty believing that these new legislative initiatives will have any real impact upon criminal gang behaviour in New South Wales. As I said before in this Chamber, a tough law and order approach is not of itself enough to reduce the incidence of gang-related crime, or any other complex social problem for that matter. If we are to effectively tackle the problem of criminal behaviour by gangs we must look at the underlying causes of gang-related crime, not just the symptoms. We must look at why people are attracted to gangs in the first place. We must look at the social and economic conditions that are conducive to the emergence of gangs, such as poverty, unemployment, family dislocation and a lack of recreational opportunities for young people. These are the things that we need to address if we are going to get any closer to solving the problem of gang-related crime in this State.

The Attorney General, the Hon. Bob debus, stated in his second reading speech that this bill will send a clear message to society that gang-related crime in New South Wales will not be tolerated. I believe "apparent criminal behaviour" were the exact words he used when describing gang-specific crime. The question for our purposes then becomes whether or not introducing more severe penalties for committing certain offences in company, or creating new criminal offences, will actually deter the commission of gang-related crimes. I do not believe so. It has been shown time and again that introducing harsher penalties and creating new criminal offences does not have much effect on whether people commit crimes. Having worked as a lawyer in the criminal justice system, I can tell honourable members that offenders will only think about a jail sentence if they believe they are going to get caught. Not too many offenders actually think that they will be caught, let alone convicted.

The Attorney General also stated that by increasing the maximum penalty for certain types of offences a message will be sent to the judiciary that the community expects offenders who commit gang-related offences to be dealt with more severely than they have been in the past. I do not agree. Introducing harsher penalties does not necessarily mean that judges will hand down longer sentences. The history of sexual assault legislation in this State provides a classic case in point. As I explained in my contribution to the debate on the Crimes Amendment (Aggravated Sexual Assault in Company) Bill, the average term of imprisonment for sexual assault remained less than 10 years, despite the maximum sentence being altered from life imprisonment to 20 years in 1981.

Honourable members should also bear in mind the fact that the sentencing exercise is a discretionary one and should remain discretionary. I am sure the Hon. John Hatzistergos will agree. Judges and magistrates are required to determine each case on the circumstances and the evidence brought before them. They must consider a number of factors before imposing a gaol sentence, such as the personal history of the offender, the prospect of rehabilitation, the need for punishment or deterrence, and the protection of the community. Punishment is then made to fit the crime and the criminal. It is simply misleading to claim that increasing the maximum penalty for a particular offence guarantees a tougher sentence.

I think it is important at this point that I remind honourable members that the expression "gang" is generally not applicable in the Australian context, at least not as gangs are known in other parts of the world. The critical distinction is that, in places such as the United States of America and Canada, gang members regularly act together in an illegal or threatening manner. In 1995 the Standing Committee on Social Issues reported on youth violence in New South Wales.. As a member of that committee during its inquiry I remember

quite well that we found no evidence of highly structured criminal gangs in Australia. The report of the Standing Committee on Social Issues even went so far as to dispute the relevance of the term "gang" to Australian youth activity. I do not think that the situation has changed all that much since then.

The committee also found that the sorts of group formations present in this State are generally loose collectives and friendship groups that are formed for essentially social purposes. They do not tend to be formed with a view to engaging in illegal criminal acts, but are formed because of shared recreational activities, culture, language, religion or low socioeconomic circumstances. The committee found that the idea of threatening, violent gangs in New South Wales is, by and large, a myth perpetuated by the media. It is also important to bear in mind that criminal behaviour by gangs is not ethnic specific. I make that point very strongly. In recent months there has been much public debate about ethnic gang violence in New South Wales. Those fears have been fuelled in part by the number of media reports in which a range of ethnic groups, particularly Lebanese and Asian, were seen to be implicated in gang-related conduct.

This sort of ethnic finger-pointing is dangerous. Not only does it unfairly stigmatise entire ethnic communities; it also leads to an atmosphere of hysteria, fear and the harassment of ethnic persons. As I said during debate on the Police Powers (Vehicles) Amendment Bill last month, people are criminals because they commit crime, not because they are of a particular race, creed or cultural background. To suggest otherwise is unfair, unjust and incorrect. I emphasise that point.

To conclude, I do not oppose the bill but I feel that much more needs to be done if we are to really address the problem of gang-related crime in New South Wales. While I agree that some crimes, particularly violent crimes, are more serious, even more heinous, when they are committed in the company of others, I do not believe that increasing maximum penalties and creating new criminal offences is of itself enough. I make it clear that of itself it is not enough. We need to provide more for young people in the way of social and economic infrastructure such as recreational outlets and educational and employment opportunities. Action is needed with regard to youth unemployment and in the creation of jobs for disadvantaged groups and communities. And it is essential that young people in general are provided with specific education in cross-cultural issues so that the backgrounds, cultures and patterns of life pertaining to specific ethnic groups can be better understood by all. I hope that the Government will address my concerns in this regard. I commend the bill to the House.

The Hon. IAN COHEN [3.41 p.m.]: As first speaker for the Greens I express concern about the Crimes Amendment (Gang and Vehicle Related Offences) Bill. After a quick look through the bill I wondered whether some of the offences dealt with by it, such as car-jacking and organised crime activity, were not already covered by the existing law. The Government may be responding to legitimate concerns in the community about such crime. Increasing the maximum penalty—in this case to 10 years imprisonment—will have very little effect on the many underlying problems of such crime. The bill does not assist the police in detecting and dealing with such crime. This type of criminal activity will continue, and bills such as this are introduced to appease the community rather than to get to the source of the crime itself.

The Greens have serious concerns about many provisions of the bill, particularly the "in company" development and the recruitment of children to engage in criminal activities. Almost every parliamentary week during the spring session we have had to consider some sort of law and order bill. Some weeks there have been more than one such bill. Invariably, the bills seek to increase police powers and rack up penalties. The Premier's latest approach is finding every possible criminal offence and adding an "in company " component to it.

The Hon. Michael Gallacher: They are in panic mode.

The Hon. IAN COHEN: I tend to agree with the Leader of the Opposition. However, the Opposition supports the Government's agenda to the hilt. Does that mean that the Opposition is also in panic mode? Both the Government and the Opposition are not dealing with the deeper, underlying issues that are creating crime. There is potential for the police to deal with these issues in a more constructive way. As the Hon. Helen Sham-Ho said, regardless of what is written in the statute book, time and again the judiciary makes decisions not driven by the potential under legislation to lock people up for long periods for crimes. This does not mean that the Greens in any way condone these crimes. Kidnapping and rape are very serious crimes against people and they need to be dealt with, but not just by conveniently creating another piece of window dressing with a law to placate the community but that achieves little.

It is clear that the Government is intent on convincing the electorate that it is doing something about gangs. The concern of the Greens is that, beyond gangs, the Government is really targeting every group of

young people. This approach creates perhaps more problems than it resolves. This direction seems to be for the moment the sum total of how the Government deals with crime and gang issues. The Greens are particularly concerned about new section 351A, which focuses on recruitment. A person who recruits a child to carry out or assist in carrying out a criminal activity is liable to be imprisoned for a maximum of 10 years. Criminal activity is conduct that constitutes a serious indictable offence. If a person recruits a 13-year-old to commit a serious indictable offence such as "sell large quantities of heroin" but the 13-year-old does not actually commit the criminal activity, the person who recruited the 13-year-old is liable. There does not have to be a nexus between the recruitment and the engaging in criminal activity.

When is the child recruited? What if a drug dealer who deals large quantities of heroin takes a young, homeless drug addict off the street and gives that person a roof, food and a daily dose of heroin? The young person may or may not go on to commit a criminal activity such as sell large quantities of heroin. The reason for housing the young person may or may not be recruitment of the child to engage in criminal activity. When does the young person become a recruit? At what stage from the time the child is to taken off the street to the time he or she assists in or carries out a criminal activity is the child recruited? There may have been no intention to recruit the child yet the young person may eventually engage in serious criminal activity. The section is widely drafted and could lead to some very unjust situations. The Greens have real concerns about the law and order agenda of the Government and the fact that these pieces of legislation are being pumped out regularly to appease the community without the implications being seriously thought through. Given the results of the last Federal election, I only hope that we will not see more of this occurring in the lead-up to the next State election. The community is not well served by this type of knee-jerk reaction by the Government, supported by the Opposition, on the law and order issue. We have to deal with the real reasons for crime and ways of preventing crime. The Government should take action on education and social issues, and more effective policing, rather than introduce this type of window dressing.

The Hon. RICHARD JONES [3.47 p.m.]: The Hon. Ian Cohen has it absolutely right: there will be a ramping up of the law and order campaign between now and the next election. Everyone is getting tougher and tougher on crime in the hope of appealing to the right-wing vote, which it seems was successful in Saturday's Federal election. No doubt we will be seeing a lot more law and order legislation coming before us to increase penalties. As the Hon. Ian Cohen said, there is nothing coming from the Government to address the real reasons for crime and the disadvantages suffered by people who eventually become caught up in crime. Every time the Government introduces a bill such as this it should also put a policy in place to prevent crime where it begins. It should not just attack those who become involved in crime. Government policy should be based on fact and reason and not on appealing to people's prejudices. The law should not be based on partial truths and sweeping generalisations. The extreme positions taken on simple propositions perpetuate some of the myths about gangs, about crime and about our youth. The resultant policies, such as the one we are debating today, have little or no beneficial effect in reality.

The bill intends to make it an offence with more severe penalties to commit in company sex offences, and it creates offences from discharging loaded arms with intent to kidnap a person who sustains actual bodily harm. The bill also increases penalties in relation to offences surrounding motor vehicles and their parts, and creates three new offences relating to car-jacking; threatening or intimidating a person to influence that person to withhold information; and recruiting a child to engage in criminal activity. Every year in New South Wales alone there are 20,000 notifications for child abuse and neglect. That is an average of 55 notifications a day.

The amazing figures reveal that at least a quarter of the children the subject of that abuse will become involved in crime. These causes must be taken seriously and addressed to reduce crime in New South Wales. That is not being done adequately. That is where crime begins and where we, as legislators, should begin to prevent crime. If the sentences imposed by the courts are perceived as inappropriate, the solution lies in the ability of the Crown to appeal the sentences and also in the ability of the Appeal Court to provide guideline sentencing judgments if there are clear inconsistencies or deficiencies in sentencing for particular offences. Both avenues are available and used in New South Wales.

The bill is another political gesture in the spirit of the otiose Crimes Amendment (Aggravated Sexual Assault in Company) Act, which commenced last month. The existing penalties were quite sufficient to deal with the circumstances that presented at the time and, in fact, the bill was superfluous. The notion of gangs is once again targeted in this bill. The word "gang" is not mentioned in the bill except in its title. The bill is not gang specific any more than it is group or clan specific. The bill specifically refers to "in company", which simply means two or more people together. One does not have to be part of a gang to act with another person. The inference that more than one means a gang merely perpetuates the hysteria that gangs are a problem.

My concern with this bill is not so much its nature but how the Government portrays the gang problem that, aforementioned, negatively impacts on already marginalised people in society. The Minister referred to the word "gang" 15 times in his second reading speech, not including his use of the word in the context of the title of the bill. He spoke of "gang-related criminal activity", and that the bill will "protect the citizens of this State from cowardly attacks by gangs", because it is "clear that the reported incidence of gang-related offences is increasing". However, he did not say anything about the actual incidence. One does not have to be in a gang, know a gang, know someone who is in a gang, have been in a gang, or want to be in a gang to commit a crime in company.

Moreover, if one is part of a group, one may be labelled a gang member. If one were to commit a crime in company, the group or gang that one is part of may have nothing to do with the crime. Of course, gangs themselves are not illegal; there is nothing inherently wrong with a gang. In theory a group of people, even a church congregation, could be labelled a gang. Unlawful behaviour is the issue here. We would be ill-advised to assume for one moment that one equates automatically with the other. The term "gang" is highly emotive, yet rarely does it have a fixed definition in its social use or legal meaning. The consistent and persistent rhetorical use of the word "gang" in debate in this House and the other House, although the word is never used in the bill at all apart from the title, is profoundly wrong.

The media and the police are concerned over ethnic youth gangs, which have appeared to be on the rise, if one were to believe the prominently featured media reports over the past few years. Actually, there has been very little empirical information regarding the actual activities of ethnic-minority young people. The presence of large groups of young people on the streets, or young people dressed in particular ways, or particular group affiliations, appears to have fostered the idea that we have a gang problem. In Australia the cultural and social environment is quite different from that in the United States of America. Unlike America, we do not have a strong academic tradition of gang research—which in part demonstrates the lack of a need for one in the first place.

What research there is has tended to show that gangs in this country are very unlike their American counterparts. Associate Professor Rob White from the University of Tasmania, Santina Perron from the Australian Institute of Criminology, Carmel Guerra from the Ethnic Youth Issues Network and Rosario Lampugnani from the Department of Immigration noted as much in their 1999 publication "Ethnic Youth Gangs in Australia: Do They Exist?" The 1996 parliamentary briefing paper entitled "Dealing with Street Gangs: Proposed Legislative Changes" noted that although citizens experienced a degree of fear walking through the streets or conducting their business, those fears, though real and in some cases well-founded, may exaggerate the actual risks; and the media bears considerable responsibility for that exaggeration.

The 1995 report on the inquiry into youth violence in New South Wales conducted by the Standing Committee on Social Issues concluded that most bands of young people in Australia are not gangs and that the term "gang" is often used erroneously to denote any group of young people. The committee had received little or no evidence that gangs that have an organised structure, an identifiable leadership, territorial identification, ongoing contact with members, a specific purpose and engaged in illegal activities actually existed in New South Wales. The committee believed that the use of the term "gang" had little relevance to youth activity of that manner.

Groups of people, particularly youths, may dress differently, hang out on the streets or in public transport and congregate in groups, but that does not mean that they are law breakers or gang members. When speaking of groups of youths, the study conducted by Pulse Consultants for the New South Wales Police Service found:

> … the hot spots [of gang activity] do not correlate well with incidents of assault, robbery, breaking and enter, stealing, malicious damage or offensive behaviour … the lack of correlation is overwhelming. This lack of correlation between gang location and crime supports the premise that most gangs are not great contributors to crimes.

Social and economic forces propel young people into vulnerable situations. Young people come together through ties of friendship, sport, school or ethnic background. Networks of youths are a normal and beneficial aspect of growing up, yet juveniles are much more likely than adults to be apprehended and arrested for the crimes that they commit. The concern is that the relationship between young people and the police at street level is already notoriously strained and not improving, and that has been the case for years. We are not talking about anything new. Violent gangs that receive media coverage confirm public perception that all groups of youths are lawless, unpredictable and violent.

The belief that the measures contained in the bill will protect citizens and send a clear message that the Government will be vigilant about stamping out gang activity wherever it flourishes is superfluous. No-one in

all honesty would believe that the Government is not serious about combating crime committed in company. The manner in which it is attempting to do so is, however, highly questionable. In popular theories about the causes of crime, crime is often seen as being a result of a lack of social consciousness, a breakdown of the social bonds that link its members, or a reflection of the poverty and inequality in society. That relates particularly to the aspect of motive, opportunity and means.

Inequality provides the motive through a gulf of material difference in society. Social trust helps provide a greater number of possible victims; self-interest provides the means through psychologically permitting unlawful behaviour. The British Journal of Criminology notes that higher levels of social capital are associated with significantly lower crime rates and that if people are able to think of others in distant and impersonal ways, they are more likely to offend. In relation to policy making, the journal suggests that government responses that are educationally proactive in nature are what are required to combat and learn more about the causes of crime.

Crime that is represented in the kind of policy discourses that we are seeing as simply a law and order problems requiring appropriate punishment for those who do not regulate themselves properly, ignores rehabilitative solutions. It ignores those rehabilitative measures to the detriment of the society that it seeks to protect. In shifting the emphasis away from the structural factors that cause people to commit crime, such as social economic deprivation, factors such as gender, social class, ethnicity and group associations are focused on as risk-enhancing factors that serve simply to divorce crime from social responsibility.

The Australian Bureau of Statistics, in speaking of the need for and benefits of a national statistical framework, noted that a key issue of concern is the criminal justice system's inability to evaluate comprehensively programs to reduce recidivism and other intervention-prevention programs in order to determine accurately the types of strategies that are effective. It also noted that a key question requiring an answer is: What are the causes of crime in Australia? In fact, that is the first question it posed. It noted that knowledge about crime prevention strategies that have proved effective in a particular geographical area, together with information about the associated social, economic and other conditions that enabled them to succeed, can be used as an effective model for other similar areas.

A practical investment by the Government in implementing and monitoring policies that target the multifaceted natures and issues surrounding crime in New South Wales requires more than adding a few years penalty here and there to particular offences. The increases in penalty that most of this legislation provides for adds to the rather draconian and inappropriate legislation that has been thus far introduced in order to get tough on crime without ever seriously addressing the causes of crime and related social, economic and educational issues. Simply increasing penalties does not reduce crime; that is a criminological fact. That is why I expressed serious concerns about legislation that has passed through this House over the past few months.

The Hon. JAN BURNSWOODS [3.58 p.m.]: The Crimes Amendment (Gang and Vehicle Related Offences) Bill was introduced by the Government to serve a number of purposes, including defining various offences and increasing penalties. As the Treasurer pointed out earlier in answer to a point of order, I was examining the *Catholic Weekly* to assist me in my remarks about the bill. One positive aspect of the bill is the ongoing debate that has been reported at length in the latest edition of the *Catholic Weekly* about the education of boys and the problems we have with boys. Obviously, that relates to boys who are a little bit older and become active in gangs. In dealing with gang-related problems education is an important factor.

The other article in the *Catholic Weekly* that the Hon. Michael Egan will be pleased to note relates to comments by the Select Committee on the Increase in Prisoner Population of which I was a member. It makes the point that as a society we need to focus on the number of positives and do as much as possible to divert young people, in particular young men, from committing offences and ending up in gaol. The Hon. Michael Egan does not appear to be impressed with the article in the *Catholic Weekly*. I do not know whether it is because of its support for Peter Macdonald over Tony Abbott, but I will leave it to him to comment on that.

The Hon. Dr PETER WONG [4.00 p.m.]: It concerns me that legislation of this nature is introduced into the Parliament by the Government and it concerns me even more that the Opposition continues to demand even harsher legislation. Nobody wins in the law and order auction except perhaps the tabloid media. Some elements of this legislation are not problematic in themselves and can make it slightly easier for the police to do their work on a day-to-day basis. For that reason I will not oppose the legislation. However, the legislation will achieve very little in the long term. The Government wants the general population to feel safer so that people will keep voting for the Government. This legislation is designed to make it appear that the Government is doing

something about crime. The Opposition is hell-bent on making the general community feel unsafe so that people will vote for the Coalition. It proposes to move amendments that it hopes will make the general community believe that the Government has been too soft and only a Coalition government can make the community safer. Legislation such as this, or even tougher legislation, does absolutely nothing to reduce crime and it does not address the causes of crime.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

AUSTRALIAN SERVICES UNION EXTORTION ALLEGATIONS

The Hon. MICHAEL GALLACHER: My question without notice is to the Minister for Industrial Relations. Is the Minister aware of extortionist demands made last month by the Australian Services Union [ASU] to a South Coast based provider of services to the disabled? Is he also aware that the union, whilst attending a mediation meeting, indicated that a workplace dispute could be resolved upon payment of $12,000 to one of its members, coupled with the threat that if this was not paid the union would enter the workplace to report alleged and unsubstantiated breaches of the Occupational Health and Safety Act? Has the Minister been informed that when an ASU official was queried about how they came up with this figure of $12,000 he replied, "…it is the standard amount"? Has the Minister investigated this matter and, if so, what was the result of his investigations?

The Hon. JOHN DELLA BOSCA: I am not aware of this series of allegations that the Leader of the Opposition has made about the Australian Services Union. I am not aware of the dispute in question. I am happy to investigate it if he provides me with details of the allegations he has raised. I would express extreme surprise if words such as "extortion" et cetera were applicable to the set of circumstances he has described. I will obtain an explanation for him after an investigation has been carried out.

The Hon. MICHAEL GALLACHER: I ask a supplementary question. To assist the Minister, I suggest he look at his own files because I have a copy of a letter sent to him on 5 October setting out the allegations in full. Is he aware of that letter?

The Hon. JOHN DELLA BOSCA: No, I have not been made aware of that letter.

CESSNOCK DRUG SUMMIT INITIATIVES

The Hon. JOHN HATZISTERGOS: My question is to the Special Minister of State. Can the Special Minister inform the House as to any Drug Summit initiatives aimed at assisting young people to access services?

The Hon. JOHN DELLA BOSCA: I can inform the House of a recent initiative in the Cessnock region that does exactly what the honourable member has referred to—a one-stop shop, that is a $300,000 Drug Summit project. It is aimed at improving the health and wellbeing of young people in the Cessnock local government region. The New South Wales Drug Summit identified that social issues such as education, employment, relationships and drug and alcohol use have a direct impact on the health and wellbeing of young people, especially in rural areas.

The one-stop-shop pilot project is a two-year trial. It will look at ways to enhance the capacity and capability of existing services and agencies for young people, including schools, sporting clubs, youth services and other youth organisations, to improve the health and wellbeing of young people in the course of their various activities. The project will be co-ordinated by the Hunter Centre for Health Advancement in partnership with the Premier's Department, New South Wales Health, Cessnock City Council, the Department of Community Services, local high schools and youth services.

The project provides funding for two positions—a project manager and a project co-ordinator. They will survey young people, the general community and local youth services. They will identify what services are currently offered and where the gaps and barriers are. They will identify what potential solutions can be put in place to better meet the needs of young people and the local community. It may be an obvious point but it is extremely important that the services offered to young people are actually user-friendly and useable by young

people. Although the project co-ordinator will work from an office at Cessnock High School, the project will actually target all 5,000 young people aged between 12 and 19 who live in the Cessnock local government area. The information provided by the young people will assist in the design and implementation of local initiatives to improve access to services and improve health outcomes and the wellbeing of young people in Cessnock.

The Drug Summit recognised that there is a need for a continuum of government and non-government services for drug abuse, including prevention, early intervention, detoxification, rehabilitation and follow-up, but the emphasis of this program is prevention and capacity-building. It was recognised that in looking at a drug addiction problem in young people, we must consider not just that problem but other issues such as mental health, recreational, educational and employment opportunities, and accommodation that affect their lifestyles, outcomes and expectations. The one-stop-shop concept certainly embodies these factors and I look forward to informing the House of further one-stop-shop projects throughout regional New South Wales.

ABOVE RAIL COMMUNITY SERVICE PAYMENTS

The Hon. DUNCAN GAY: My question is to the Treasurer. Has he now reneged on guarantees given during his second reading speech on the Freight Rail Corporation (Sale) Bill by confirming to interested parties that the State Government will not be providing $235 million in above rail community service payments in the period to 2005-2006? Can the Treasurer explain why the Government has backed down on this guarantee and how will the refusal to make this payment affect branch lines in regional areas, including the Tamworth to Spring Ridge branch line, which may become unprofitable because of this move by the Government?

The Hon. MICHAEL EGAN: I am pleased to inform the Deputy Leader of the Opposition that the short and simple answer to his question is no. The Government will be honouring the commitment that I made in my second reading speech on the FreightCorp privatisation bill. Indeed, we will be exceeding that commitment because what I promised on that occasion was that the Government, over a six-year period, would commit $1,400 million to above rail and below rail community service obligations [CSOs]. I can assure the House that not only will that $1,400 million be forthcoming but some more will as well.

The Hon. Duncan Gay: How much more?

The Hon. MICHAEL EGAN: You will just have to wait, and not all that long, but I can assure you that it will be more than $1,400 million. I pointed out in my second reading speech:

> The transfer of some funding to below-rail payments reflects the Government's commitment to maintaining and improving rural and regional rail track and to making more government support available to all rail freight operators providing services in country New South Wales.

I repeat that commitment that I gave in my second reading speech. I not only repeat the commitment that we will be spending at least 1,400 million on above and below rail CSO payments for freight users around New South Wales, but I can inform the House that we will be exceeding that commitment, as one would expect from a Government that is committed to country and regional New South Wales. We are the only fair dinkum country party in this Parliament. We have come up with the goods. We have delivered country roads, country hospitals and country schools. We have done so year after year, budget after budget, and we will do it again.

DNA TESTING OF PRISONERS

The Hon. ELAINE NILE: My question is to the Treasurer, representing the Minister for Police. What are the results of the recent DNA testing of New South Wales prisoners?

The Hon. John Ryan: Nothing.

The Hon. MICHAEL EGAN: The Hon. John Ryan interjects "nothing". I inform the House that earlier this year police and Corrective Services officers embarked on a program to take DNA samples from all New South Wales prisoners serving time for serious crimes such as murder and rape. As honourable members will be aware, police were given these powers under the Government's landmark DNA legislation, which came into force on 1 January this year. These prisoner DNA samples—so far there are more than 7,300—have all been analysed and profiled and are now being entered onto the new DNA database and matched against DNA collected from unsolved crimes.

I am informed that the results so far are dramatic and show the potential of DNA as a silent witness, not just to solve crimes but also to free the innocent, in other words, those wrongly accused of crimes they did not commit. In one case I am told that a 15-year-old girl was subject to a horrific gang rape by two men, who escaped leaving no visible clues. Police had no suspects and there were no active leads.

The Hon. John Ryan: Point of order: The Treasurer's comments are very interesting but if he wishes to continue he should appear as a witness before the Standing Committee on Law and Justice, which is currently inquiring into the effectiveness of the implementation of DNA testing. The Treasurer appears to be commenting on a matter that is currently before a committee of this House.

The Hon. MICHAEL EGAN: To the point of order: I have been asked a very important and intelligent question by the Hon. Elaine Nile. Opposition members are embarrassed because they never ask intelligent and important questions. I have been asked an important question and I am giving, and intend to give, a serious answer.

The PRESIDENT: Order! The Hon. John Ryan knows that there is no point of order.

The Hon. MICHAEL EGAN: In the case involving the rape of a 15-year-old girl there were no suspects and the police had no active leads. However, DNA samples were collected from the crime scene, analysed and loaded onto the New South Wales database. When an evidence sample from this crime was tested against DNA samples collected from gaol inmates, police found a match. I am advised that the crime scene DNA profile matched perfectly the DNA profiles of samples taken from two convicted serious indictable offenders. This is particularly exciting because it is what is termed a "cold hit"—that is, a match for a crime for which police had no suspects, no active clues and, without DNA or a confession, little chance of solving.

This serious sexual assault is not the only cold hit that police have made so far. I am advised that police have successfully matched New South Wales prisoner DNA samples to two break, enter and stealing cases, one of which had no suspects and the other a wrong suspect whom police were then able to eliminate; an armed robbery; an aggravated robbery in which the suspect had tried to run down a police officer; and an unsolved sexual assault in which the attacker, a serial rapist, had drugged his victims with spiked drinks before assaulting them. These worst-category crimes are being solved. [*Time expired.*]

OPAL EXPLORATION

The Hon. MICHAEL COSTA: My question is directed to the Minister for Mineral Resources. What is being done to attract further opal exploration in New South Wales?

The Hon. EDDIE OBEID: Our State's opal production is worth around $40 million a year. Most of this production comes from Lightning Ridge, which produces the world's finest black opals. This is an important industry in our State's far north, and I am pleased to advise the House that the Government is taking the steps necessary for its continued development. Yesterday 150 miners gathered at the Lightning Ridge Bowling Club to hear about the New South Wales Government's latest search for opals. It was an historic moment for our opal industry. For the first time in Australia, and possibly the world, technology of this type has been used to search for opal-bearing rock covered by layers of sandstone.

The New South Wales Government provided $90,000 for this helicopter survey, which was carried out last June. It covered 60 square kilometres in the southern part of the Coocoran opal field, an area selected at the request of the Lightning Ridge opal miners. Yesterday the Department of Mineral Resources briefed members of the Lightning Ridge Miners Association about the findings. Information provided to local miners includes preliminary interpretations of the new survey maps and covers a known opal field, and unmined and underexplored areas. Results in the northern part of the survey areas have identified characteristic, anomalies and features that appear to be similar to known opal occurrences. The southern part of the survey covers the region that is largely unmined and underexplored for this gemstone.

Overall survey results point to some geological conditions that may be favourable to opal mining. Miners have until 23 November to apply for opal prospecting licences in the area. Expressions of interest in this newly surveyed area were called on 8 October. Funding for this research comes from the New South Wales Government's $30 million Exploration New South Wales program. We intend to undertake other investigation in this important region. An additional $200,000 has been allocated to further surveys this financial year, including shallow drilling in this area. I look forward to updating the House about developments in the Lightning Ridge area.

HOSPITAL STAFF SECURITY DUTIES

Reverend the Hon. FRED NILE: My question is to the Treasurer, representing the Minister for Health. Is it a fact that the New South Wales Minister for Health has announced plans to train hospital cleaners

and clerical workers to perform security duties and that these workers will be licensed at the same level as security guards and have the same powers as special constables? Is it a fact that many hospital cleaners are middle-aged women? How many of the Government's promised 500 new security guards will also be hospital cleaners? Will the Government ensure that hospital cleaners who perform security duties are physically fit and able to provide genuine security protection? Will the Government provide physically fit, trained, full-time security guards to protect nurses and patients in New South Wales hospitals?

The Hon. MICHAEL EGAN: I am not aware of the details of the matter that Reverend the Hon. Fred Nile has raised. However, I assume from his question that many hospital cleaners and clerical workers would be suitable for training as special constables. Obviously some clerical workers and hospital cleaners would not be suitable for that role, but many would be. I can assure the honourable member that only those who are suitable for the job will be trained for it. However, I will take up the matter with my colleague the Minister for Health and come back to Reverend the Hon. Fred Nile when I receive the Minister's considered response.

NON-GOVERNMENT SCHOOLS REVIEW

The Hon. PATRICIA FORSYTHE: My question without notice is to the Special Minister of State, representing the Minister for Education and Training. Will the Government give a commitment not to introduce any recommendations from the Grimshaw review of non-government schooling without giving non-government schools appropriate opportunities to meet budgetary and other planning requirements? Why is the Government not prepared to outline its proposals to non-government schools?

The Hon. JOHN DELLA BOSCA: Obviously I am not in a position to give a commitment on behalf of the Minister at this time. I am sure that when I provide the honourable member's question to the Minister I will receive a prompt answer, which I will advise the honourable member and the House at the earliest opportunity.

PARTICIPATION OF YOUNG PEOPLE IN LOCAL GOVERNMENT

The Hon. AMANDA FAZIO: My question is directed to the Minister for Juvenile Justice, and Minister Assisting the Premier on Youth. As the Minister is aware, in the Ashfield council area where I live, the Deputy Mayor, Councillor Claire Blades, is a very impressive young woman. Can the Minister inform the House what action the Government is taking to encourage other young people's participation in local government?

The Hon. CARMEL TEBBUTT: I thank the Hon. Amanda Fazio for her question and I concur with her view that Councillor Claire Blades is in fact a very impressive young woman who has made a significant contribution to the Ashfield area. The Government has made young people's participation in the decisions—

The Hon. Duncan Gay: Point of order: I believe this question is out of order because it seeks the reinforcement of an opinion. Your previous rulings have indicated that that is beyond the sessional orders.

The Hon. CARMEL TEBBUTT: To the point of order: The honourable member asked a question about what activities the Government was undertaking to encourage young people's participation in local government. I cannot see how that in any way contravenes the standing orders. Her comments about a particular individual were an aside and not part of the substantive question.

The Hon. Jan Burnswoods: To the point of order: The Deputy Leader of the Opposition took a point of order when the Minister had already begun answering the question. Therefore, his point of order is out of order.

The Hon. Michael Gallacher: To the point of order: The term "impressive" clearly was used and, therefore, seeks an opinion from the Minister. The Minister herself immediately embarked upon answering the question and referred also to the word "impressive", again reinforcing an opinion in relation to this young woman to whom the question referred. Clearly the question is out of order in the context of the current sessional orders.

The PRESIDENT: Order! Sessional orders provide that a question must not contain statements of fact or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated. A question must not contain argument, inferences, imputations, epithets, ironical expressions or

hypothetical matter. I have difficulty ruling the question out of order on the basis of any of those requirements. In addition, a question cannot ask for an expression of opinion. In my view the question did not ask for an expression of opinion; it asked for the detail of what the Government was doing. It may have been better for the Deputy Leader of the Opposition to argue that the question contained an inference. I remind members that the new sessional orders state specifically what can and cannot be asked in a question, which members should continue to word concisely. The question was in order.

The Hon. CARMEL TEBBUTT: It is true that the Government has made young people's participation in the decisions that affect their rights a key priority but, of course, the State Government is only part of the picture. Both Federal and local governments have an important role to play in ensuring that the voices of young people are heard. In recognition of this, the Government has been working closely with councils to encourage local government to include young people in decision making. Changes that the Government made to the Local Government Act require councils to develop social and management plans to plan for community needs. These plans are required to meet the aims and needs for specific target groups— [*Time expired*.]

The Hon. AMANDA FAZIO: I ask a supplementary question. Could the Minister provide further detail of what the State Government is doing?

The Hon. John Jobling: Point of order: A supplementary question must be just that. The question asked by the honourable member was not a supplementary question; it was a totally new question and its words do not relate to the original question. If it seeks further information, it deviates from the original question, which was quite specific.

The Hon. CARMEL TEBBUTT: To the point of order: The honourable member asked for further details consistent with supplementary questions that have been asked in that form on many occasions in this House. Quite clearly it is in order.

The PRESIDENT: Order! It is quite clear that the supplementary question was in order. The standing orders say that a supplementary question may be immediately put by the member who asked a question to elucidate an answer. To ask for further details is in fact to elucidate an answer. The honourable member's question was in order.

The Hon. CARMEL TEBBUTT: The Local Government Act requires councils to develop social and management plans to plan for community needs. Many local councils have established youth councils and these are proving very effective in giving young people a voice. Youth Week provides another important opportunity for young people to be involved in local government activities. Since 1989 New South Wales has run Youth Week in partnership with local councils. The Government provides grants of up to $2,000 to councils for Youth Week events. During Youth Week councils provide young people with the opportunity to be involved in organising a wide range of events. Youth Week promotes also the achievement and recognition of young people across the State.

This year 130 local councils took part in Youth Week. To recognise the efforts of councils in helping young people to devise, plan and co-ordinate over 650 Youth Week activities the Government established the Youth Week Local Council Awards. These awards were judged by the Youth Week Young People's Advisory Group and the Local Government and Shires Association. I am pleased to be able to announce that the inaugural Youth Week council award winners are Guyra Shire Council for the New Kid on the Block Award, Baulkham Hills and Broken Hill councils for the Bright Sparks Award, Parramatta council for the Great Leap Forward Award and Hastings Council for the Best of the Best Award for the council that has consistently excelled in co-ordinating Youth Week activities. I congratulate all the councils and their Youth Week committees on winning these awards. It is a tribute to the work they have done to involve young people in the area in local government. I look forward to them participating in Youth Week 2002, which will be held in April next year.

Mrs ADRIENNE RYAN HAND GUN POSSESSION ALLEGATION

The Hon. DAVID OLDFIELD: My question is to the Treasurer, representing the Minister for Police. Is the Treasurer aware of a *Sydney Morning Herald* report alleging that Mrs Ryan, the wife of Commissioner Ryan, recently was seen brandishing a hand gun in a suburban Sydney street? Is the Treasurer aware that the commissioner's office refuses to confirm or deny the allegation and that the *Sydney Morning Herald* is standing by its story? Is the Treasurer concerned that, given the laws governing the possession and use of hand guns, the story being left in an undenied state may be a complication for the commissioner and Mrs Ryan? Will the

Minister for Police ask the commissioner to, in this case, break his rule of no comment so this story can be comprehensively refuted and hence leave the public with the clear understanding that the story was nothing more than gossip in the first place?

The Hon. MICHAEL EGAN: I am not aware of the matter. I will refer it to my colleague the Minister for Police.

NORTHERN NEW SOUTH WALES HEALTH SERVICES

The Hon. JENNIFER GARDINER: My question is to the Treasurer, representing the Minister for Health. Is the Minister aware of confusion as to the Government's strategic plans for health services in northern New South Wales communities? Have the details of those strategic plans for northern towns been provided by the Minister for Health, who has been considering them for quite some time? Can the Treasurer explain any delay? Will the Treasurer undertake to ask the Minister for Health to make these plans available very soon?

The Hon. MICHAEL EGAN: I can understand it. There is always confusion within the National Party. But I will be very surprised if there is confusion about the Government's strategy plans for health. However, I will refer the honourable member's question to my colleague the Minister for Health.

MEAT PROCESSING INDUSTRY

The Hon. PETER PRIMROSE: My question without notice is directed to the Special Minister of State, and the Minister for Industrial Relations. Will the Minister inform the House about initiatives to assist the meat processing industry?

The Hon. JOHN DELLA BOSCA: I remind the Hon. Peter Primrose that in 1999 the Government established 13 industry reference groups to reduce the incidence and severity of work-related injuries, improve the return-to-work rates of injured employees and reduce the overall costs of workers compensation. The meat industry subgroup of the industry reference group identified Q fever as a major issue requiring action. Q fever is a significant occupational illness for both the meat processing and agricultural industries. Each year in Australia more than 600 cases of the disease are notified, more than 200 people are hospitalised and at least three people die as result of Q fever. Some 88 per cent of the cases occur in New South Wales and Queensland. The meat industry subgroup of the Consumer Manufacturing Industry Reference Group in collaboration with the Department of Health has established a Q fever vaccination register. The register will benefit both employers and workers in the industry.

The main reasons for developing a vaccination register of the disease are to encourage employers to vaccinate against Q fever, to raise awareness of Q fever as a significant and growing occupational health and safety risk in the industry, to prevent the health risks associated with revaccination and, ultimately, to reduce the incidence of Q fever and, therefore, associated costs. The register is now online in New South Wales and southern Queensland. The industry is demonstrating its commitment to this issue by funding the register, which will meet both the public health needs in New South Wales to treat and track the disease and also the occupational health threat. This is another example of how the Government is harnessing the experience and understanding of industry and members of industry on the ground to solve their problems and to reduce not only the cost of workers compensation but also the associated risks for individual employees.

CABRAMATTA POLICING

Ms LEE RHIANNON: My question is directed to the Treasurer, representing the Premier. Was a private meeting held yesterday between Government representatives and personalities associated with Cabramatta policing issues? Was this meeting initiated at the direction of the Premier? Did radio personality Alan Jones, and Richard Basham, Tim Priest and Ross Treyveaud attend this meeting? What was the outcome of the meeting? Was the meeting held at Alan Jones' house?

The Hon. MICHAEL EGAN: I am not aware of any private meeting held yesterday. If I were aware of a private meeting, I certainly would not divulge the details of it.

FAIR WEAR CAMPAIGN

The Hon. JAMES SAMIOS: My question is to the Minister for Industrial Relations. What is the total amount of funding provided by the Department of Industrial Relations to the Fair Wear campaign since its

inception in December 1996? Has the department been provided with full details of how its funds have been spent by Fair Wear? If so, will he table this information? Have any officers from the Department of Industrial Relations been seconded to work directly with Fair Wear? If so, will he table the details?

The Hon. JOHN DELLA BOSCA: I am quite happy to answer the honourable member's question, but it contains confused terminology. One of the principal planks of the Government's industrial relations plans is to eliminate exploitation of home-based clothing workers in New South Wales. Specifically, the problems to be resolved are the endemic non-compliance with minimum New South Wales labour standards by employers of home-based clothing workers, so-called outworkers; the inability of current methods available to industrial and occupational health and safety enforcement bodies to address the issues in dealing with outworkers and their problems; the vulnerability of outworkers, in particular women disadvantaged by language barriers; discrimination in the home-based clothing sector, with serious consequences to their health and well-being and that of their families, often with few options for alternative employment; and a clothing industry that focuses on surviving through suppressed labour costs rather than on achieving a competitive advantage in a global market by increasing the skills of the employees working within it, whether they be outworkers or employees in factories or other forms of employment.

On 25 March the Premier announced a comprehensive $4 million plan to help protect outworkers. The major aspects of the three-year strategy to help protect clothing outworkers are encouraging retailers and manufacturers to fully implement the voluntary home workers code of practice and retailers to voluntarily enter into arrangements with the Textile, Clothing and Footwear Union that reflect existing arrangements between the union and a small number of retailers. Honourable members may be familiar with the so-called Target agreement, which is an agreement between the relevant union and the major retailer of a variety of lines of clothing.

The Hon. Michael Gallacher: You are not answering the question.

The Hon. JOHN DELLA BOSCA: The honourable member's question was about how much money has been spent on clothing outworkers. I have introduced the subject by describing a $4 million program.

The Hon. Michael Gallacher: You were asked how the funds have been spent.

The Hon. JOHN DELLA BOSCA: I am elaborating on that. I do not understand why the honourable member continues to interject. If the industry fails to take up this challenge the Government will legislate to make a code and relevant agreement obligations mandatory. Other strategies include inserting special provisions into the Industrial Relations Act 1996 to enable outworkers to recover unpaid remuneration from fashion houses, manufacturers and others in the clothing supply chain; tightening of the provisions of the Industrial Relations Act 1996 that deem outworkers to be employees; expanding the multicultural clothing industry unit within the Department of Industrial Relations to four bilingual inspectors and advisers—new inspectors have taken up their positions recently and are currently in training; assisting outworkers to retain or reskill to improve their job opportunities; and establishing an ethical clothing trade council comprising union, community, and retail and manufacturing representatives to make recommendations on additional components for a mandatory code, if required.

The council will report publicly on retail and supplier compliance with the voluntary elements of the code. It is envisaged that an individual with a close understanding of the structure, issues and difficulties facing this industry would chair the council. I am currently considering suitably qualified persons to be recommended for appointment. Additionally, on 3 April I announced the establishment of a clothing outworkers entitlements task force—which is what the Hon. James Samios is referring to—comprising Department of Industrial Relations and WorkCover inspectors, with representatives of the Textile, Clothing and Footwear Union and the New South Wales Labor Council to ensure that fashion houses and clothing manufacturers observe their basic employee obligations relating to workers compensation, superannuation and the keeping of wages records. This task force commenced its visits to clothing workplaces on 6 August. The task force is now assessing the findings of the visits so far.

RENEWABLE ENERGY INDUSTRY

The Hon. JAN BURNSWOODS: My question without notice is to the Treasurer, and Minister for State Development. Will the Minister advise the House how Government initiatives are further developing the renewable energy industry in New South Wales?

The Hon. MICHAEL EGAN: The New South Wales Government plans to help land-holders establish more wind farms, while looking for ways to create jobs by manufacturing the equipment for those wind farms in New South Wales. New South Wales is the national leader when it comes to renewable energy, and a new New South Wales *Wind Handbook* will help us to retain that lead. The handbook will set out step-by-step information that land-holders, developers and investors need to establish more wind farms across the State. Added to data collected from 25 sites across New South Wales, the opportunity exists for more farms like those at Blayney, Crookwell and Hampton. Wind speeds in New South Wales are comparable to northern Europe, with planning and regulatory requirements, and approvals far more straightforward for interested parties.

The New South Wales Sustainable Energy Development Authority [SEDA] will also run workshops in many country centres to distribute the handbook and provide professional advice. This is one of the fastest-growing industries in the country and adding 40-metre wind turbines to sheep or agricultural properties has proved a successful exercise so far. The Government also has a very generous funding program that means many projects become commercial realities. Work will also be undertaken to try to boost regional jobs from a study into manufacturing operations for plant and equipment in the State. Millions of dollars leave the country for the equipment needed to produce clean green energy. For example, Europe continues to be the centre for the production of the massive wind turbines.

With Australian ingenuity and scientific expertise, this type of infrastructure could be made domestically. Already the existing sustainable industry supports almost 4,000 jobs in New South Wales alone. If successful, many hundreds of jobs would flow from domestic manufacturing of the latest in solar, wind and biomass technology and equipment. The study is due to be finished next year. I am proud of these recent initiatives to address the greenhouse issue by further developing a renewable energy industry in New South Wales.

DEPARTMENT FOR WOMEN WEB SITE

The Hon. HELEN SHAM-HO: My question is directed to the Minister for Juvenile Justice, representing the Minister for Women. I refer the Minister to a web site that has been in existence since March this year. Will the Minister provide details of how the Department of Women web site, entitled "Women's Gateway NSW", is being publicised to women from culturally diverse backgrounds? Will the Minister also advise whether the information is published in hard copy so that women who may not have access to the Internet can access important information on issues such as abortion, superannuation, et cetera?

The Hon. CARMEL TEBBUTT: The Hon. Helen Sham-Ho has asked an important question about how women from non-English speaking backgrounds might access the details published on the web site. I will refer the honourable member's question to the Minister in the other place and undertake to obtain a response as soon as possible.

SYDNEY OLYMPIC PARK FACILITIES

The Hon. HENRY TSANG: My question without notice is to the Treasurer, and Minister for State Development. Will the Minister advise the House on Government strategies to ensure the continued use of Sydney Olympic Park facilities?

The Hon. MICHAEL EGAN: Yesterday I was pleased to sign a memorandum of understanding with authorities from China in relation to collaboration between Australia and China in the preparation of that country's 2008 Olympic Games. I advise the House that the Hon. Henry Tsang was instrumental in that regard. Three proponents will be invited to submit detailed proposals for the announcement and continued use of the eight-hectare golf driving range at Sydney Olympic Park. The revitalised facility is expected to attract up to an additional 100,000 people each year. A total of seven proposals had been received in relation to the golf driving range as part of the Sydney Olympic Park Authority's June request for proposals for further development. The golf driving range sits between two major thoroughfares at Sydney Olympic Park—The Olympic Boulevard and Australia Ave—and is close to the tennis and aquatic centres. The injection of an additional 100,000 visitors every year to this precinct will help to energise and revitalise Sydney Olympic Park.

The site was originally developed for golf practice in 1995 and, during the Olympic Games, was resumed for Olympic purposes, including its use as a bus interchange station. The future use of this site corresponds with its previous uses, and the Government believes it is appropriate to conclude commercial negotiations as quickly as possible. Discussions are currently under way between the Sydney Olympic Park

Authority [SOPA] and the proponents for the enhancement of the facility on the basis of a 10-year lease. They will have the option to extend the lease for a further five years. The three proponents are Sydney International Tennis Centre, the State Golf Centre Pty Ltd and No 1 Olympic Boulevard Consortium. SOPA is expected to finalise negotiations in relation to the site by the end of this year. SOPA is also actively considering a further 12 submissions relating to commercial, residential, convenience retail and other developments in other areas at Sydney Olympic Park. It is expecting to finalise a short list for those submissions in the near future. Sydney Olympic Park has an exciting future and the establishment of a golf driving range will attract even more people to the precinct.

The Hon. Dr Arthur Chesterfield-Evans: With local government, Minister?

The Hon. MICHAEL EGAN: What are you suggesting?

The Hon. Dr Arthur Chesterfield-Evans: Will they be made public?

The Hon. MICHAEL EGAN: That we will not know they are there? That you will not be able to open your eyes and see the development that takes place?

LOCAL GOVERNMENT GOODS AND SERVICES TAX

The Hon. RICK COLLESS: My question is to the Treasurer, and Vice-President of the Executive Council. Now that New South Wales will continue to be a major beneficiary of the goods and services tax under the re-elected Federal Coalition Government, and considering the Treasurer's previous repeated refusals to share national competition policy payments with local government across New South Wales, will he pledge a portion of the goods and services tax revenue to every council throughout New South Wales? If not, why not?

The Hon. MICHAEL EGAN: As I have pointed out on previous occasions, local government is probably the only net beneficiary of the goods and services tax because local councils have been relieved of the previously embedded sales tax burden. As I have said on many occasions in this House, local government is the only net beneficiary of the GST. Indeed, I will repeat my warning to this House and to the people of New South Wales and Australia that I made only a couple of weeks ago in this House. As sure as night follows day, a Howard-Costello Government will be wanting soon to impose the GST on food. It was a bitter blow last Saturday when the people of New South Wales and Australia did not heed my warning. I was looking forward not only to the benefits for the people of Australia of the election of a Beazley Labor government but also to the assistance that a Beazley Labor government would give this Government in the pre-election period in 2003. Now all we can look forward to is the help the Howard-Costello Government will give the Opposition in its election campaign in 2003.

The Hon. RICK COLLESS: I ask a supplementary question. Given the Treasurer's statements in response to my question, does his answer mean that when the Howard-Anderson Government seeks to increase the GST he will approve it?

The Hon. MICHAEL EGAN: No, of course we will not. However, the Federal Government does not need our approval. It does not need our concurrence. If it introduces a bill that changes the Commonwealth GST legislation the States' veto will be wiped away. What is more, if members of the Opposition do not take my word on it or the word of the New South Wales business council they should at least take the word of Mr Ian Causley, their former State colleague, who, on North Coast radio last Friday morning, conceded that I was absolutely right. I was waiting on the phone to be interviewed by North Coast radio and Ian Causley was being interviewed. He said, "Of course Michael Egan's right. Everyone knows that. They could change the law with an Act of Parliament." This is precisely what I warned the Opposition about. The Opposition was not only warned by me, it was also warned by Ian Causley.

COMMUNITY RELATIONS COMMISSION FORUM

The Hon. Dr PETER WONG: My question without notice is to the Treasurer, representing the Premier, and Minister for Citizenship. In March the Community Relations Commission was launched and the Government held a large public forum to make recommendations and give direction to the new commission. Did the commission develop a plan of action to follow up on the recommendations of the public forum? Is that plan of action publicly available? What are the main elements of the current action plan or corporate plan of the Community Relations Commission? What progress has been made to date by the commission in implementing the recommendations of the public forum?

The Hon. MICHAEL EGAN: I will refer the honourable member's question to my colleague the Premier and obtain a response. In the meantime, I commiserate with the Hon. Dr Peter Wong on the performance of his party on Saturday.

[*Interruption*]

Mind you, I commiserate with the Democrats, too. I did warn the Hon. Dr Arthur Chesterfield-Evans that the Democrats would get nowhere with Senator Natasha Stott Despoja—she is a spoilt brat!

GOODS AND SERVICES TAX

The Hon. DOUG MOPPETT: Given the Treasurer's proclaimed expertise in relation to the goods and services tax, how will he assure the taxpayers of New South Wales that he can apply any sort of levy in this State given the revelation in Newcastle the other day that he could not work out the increment of cost to a packet of cornflakes when a 10 per cent levy was applied to it?

The Hon. MICHAEL EGAN: I think I said that the increased cost on a box of cornflakes was $31. I meant 31¢.

KYOCERA MITA REGIONAL HEADQUARTERS

The Hon. IAN WEST: Will the Treasurer, and Minister for State Development advise the House on how Government initiatives are continuing to attract regional headquarters to New South Wales?

The Hon. MICHAEL EGAN: That is a very good question from the Hon. Ian West. It is coincidental that only last week I had the pleasure of opening the Asia-Pacific regional headquarters in North Ryde of Japanese firm Kyocera Mita. The company's expanded Sydney operation, now its regional headquarters, will bring an extra 90 jobs over the next five years, taking its total work force to 150. This involves an investment of around $13 million, with export sales expected to reach $25 million annually. Kyocera is known for its distinctive management philosophy of harmonious coexistence with nature and society.

The Hon. Michael Gallacher: It sounds like you!

The Hon. MICHAEL EGAN: It does sound like me.

The Hon. Michael Gallacher: Small but perfectly formed.

The Hon. MICHAEL EGAN: I was once. It is a long-time since I could make that claim. I am sure that the thriving business climate in New South Wales will be a most harmonious environment for the company's growth and investment. Kyocera is located in Sydney's silicon corridor, stretching the 10 kilometres from North Ryde to North Sydney. Over the past 18 months a number of other information and communications technology companies—including BOC, Sony and Oracle—have opened or expanded their headquarters in North Ryde. A subsidiary of the Kyocera Corporation based in Kyoto, Kyocera Mita is one of the world's largest manufacturers of copiers and computer printers. The Kyocera Corporation has an annual turnover of more than $US12billion worldwide. In Australia its annual turnover is $A250 million. Product lines include ecologically friendly laser printers that use a refillable imaging system instead of disposable print cartridges. Kyocera is also a pioneer in the use of ceramics in engineering, semiconductors and orthopaedic applications. It is evident that Sydney has become the choice of many large corporations when they decide where to locate their regional headquarters. I congratulate Kyocera on its fine choice.

WORKERS COMPENSATION REFORMS

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is directed to the Minister for Industrial Relations. With regard to the Workers Compensation Legislation Further Amendment Bill 2001, what are the proposed changes that the Government is to make to statutory benefits in respect of the Workers Compensation Act 1987 and ancillary Acts? What are the actuarial costings of the changes in respect of common law entitlements and statutory benefits which will result? What investigations have been undertaken and then revised to analyse the costs to the WorkCover scheme of commutations?

The Hon. JOHN DELLA BOSCA: I think that the information that the honourable member is seeking is similar to the information in relation to which I have given a commitment already to the Leader of the

Opposition and other members of the House. In the course of the debate we will be happy to supply the information. As the honourable member may be aware, the Government intends to implement the last component of the workers compensation reforms to dispute resolution before the end of this year. We have indicated that we expect to introduce legislation to this Parliament on or about 27 November to complete the implementation of the recommendations of the common law inquiry. In the discussions over the dispute resolution reform and additional matters in relation to commutation and private underwriting it was agreed that they would be included in that package of legislation. I might have lost track of some of the specifics of what the honourable member was asking but, as with the last round of reforms, in the debate in this Chamber honourable members will be made fully aware of the general matters relating to actuarial issues and costings of any changes.

FAIR WEAR CAMPAIGN

The Hon. GREG PEARCE: My question is to the Minister for Industrial Relations. Has the Minister investigated whether industry campaigns against brand-name companies such as the campaign conducted by Fair Wear are having an adverse effect on the clothing industry in New South Wales? If so, what was the result of the investigation?

The Hon. JOHN DELLA BOSCA: I am not sure of the sense of the honourable member's question. The Fair Wear campaign is a community-based campaign with respect to some of the questionable—and even illicit—practices in the clothing trades industry relating to the exploitation of outworkers. As I outlined in response to a question by the Hon. James Samios, the Government has introduced a package of measures partly in response to the Fair Wear campaign and partly in co-ordinated activity with aspects of the Fair Wear campaign to end a range of socially unacceptable practices in the clothing industry in relation to outworkers. The Fair Wear campaign, which is currently attempting to enforce a voluntary code of practice, publishes in a fairly freely available form a small guide to those retailers that practice ethical clothing trades practice. I mentioned in my answer to the Hon. James Samios the so-called Target agreement, which is an agreement between the Textile Clothing and Footwear Union—I think Fair Wear is associated in some sense with that agreement—and the Target retail chain.

The Hon. Michael Egan: Is Target a Woolworths organisation?

The Hon. JOHN DELLA BOSCA: It is a Coles organisation. The Target code has now become an industry standard with regard to retail chain responsibility for employment practices. It is working well in so far as Target is concerned and the Coles organisation has not expressed to me any reservations about it. Organisations that decline to practise ethical employment are nominated as such. It is probably a legitimate form of dissent for any organisation in the community to publish the names of companies that decline to give a commitment to ethical practice. That is the best I can do in answering the question. I think the Fair Wear campaign, on balance, is a good campaign. It is not being conducted by the Government; it is being conducted by a range of community organisations and churches.

NATIVE FISH CONSERVATION

The Hon. JANELLE SAFFIN: My question is directed to the Minister for Fisheries. What action has been taken to recognise potential threats to rare species in our rivers and waterways?

The Hon. EDDIE OBEID: I thank my colleague the Hon. Janelle Saffin for a very important question and her continuing interest in the conservation of our aquatic species. This Government is working to protect the future of our native fish. I am sure I speak for all members of this House when I say that it is important that future generations will be able to enjoy our unique species. Scientific advice is crucial in helping the community to make decisions about our aquatic environment and it is an important part of our whole-of-government approach to looking after our aquatic habitats.

Recently the independent Fisheries Scientific Committee identified a number of practices that should be regarded as key threatening processes to native fish and aquatic habitats. The committee decided that the degradation of native vegetation growing alongside waterways should be listed as a key threatening process. It has also determined that the removal of large wood debris, snags, is another key threatening process. The committee concluded that the introduction of fish to fresh water within a river catchment outside their natural range should be regarded as a key threatening process. The Government has no argument with the scientific decisions by that eminent group of highly qualified individuals. Of course, the wider community will decide how that information is used.

For quite some time the potential for those activities to impact on our natural waterways has been recognised. As a result, a range of sensible environmental measures has already been implemented to minimise the risk of those activities on our aquatic environment. Over the coming years New South Wales Fisheries will consult with local communities and stakeholders on any issues arising from those listings. Only by working with regional communities can the best management decisions be made.

The Hon. MICHAEL EGAN: If honourable members have further questions, they may ask them tomorrow or put them on notice.

MOBILE PHONE SAFETY

The Hon. JOHN DELLA BOSCA: On 25 September Reverend the Hon. Fred Nile asked me a question without notice relating to mobile phone safety. The Minister for Health provided the following response:

> As cellular telephones are a relatively new technology, there is not yet long-term follow-up data on their possible biological effects. However, the lack of ionizing radiation and the low energy level emitted from cell phones and absorbed by human tissues make it unlikely that these devices cause cancer.
>
> Several well-designed epidemiologic studies find no consistent association between cell phone use and brain cancer. Recent large studies from Denmark and the United States show that there were no increases of brain or salivary gland cancer—the cancers of *a priori* interest. Tumours did not occur disproportionately on the side of the head on which the mobile phone was used and there was no evidence of higher risks on people using the phones for more than 60 minutes a day. A Medline search from 1998 until October 2001 failed to find a recent Swedish study that addressed this issue.
>
> Despite these negative results, regulators have urged manufacturers to reduce the field strengths of mobile devices. The rapid increase in mobile phone use among people of all ages has raised concerns about potential effects in vulnerable groups, particularly children. An authoritative view by the Royal Society of Canada failed to find any evidence of a particular susceptibility of children to any health effects of mobile phones. It is understood that the UK Department of Education issued a directive concerning mobile phone use by children, but the basis for this directive is not known at this stage.
>
> NSW Health, the Commonwealth and the States support further epidemiological and laboratory research into the health effects of mobile phone use and are monitoring international developments.

RICHMOND VALLEY COGENERATION FACILITY

The Hon. JOHN DELLA BOSCA: On 26 September the Hon. Ian Cohen asked me a question without notice concerning the Richmond Valley cogeneration facility. I am advised by my colleague the Minister for Urban Affairs and Planning that the development application submitted to Richmond Valley Council has since been withdrawn.

ISOLATED PATIENTS TRAVEL AND ACCOMMODATION ASSISTANCE SCHEME

The Hon. JOHN DELLA BOSCA: On 27 September the Hon. Jennifer Gardiner asked me a question without notice relating to the isolated patients travel and accommodation assistance scheme. The Minister for Health provided the following response:

> A review of the IPTAAS was undertaken in 1998 to direct assistance to those most in need and improve management of the Scheme. Following the release of a Discussion Paper and extensive consultation with peak professionals and community groups, including NCOSS, the Minister for Health approved implementation of the recommendations from the Review effective from 1 July 2000.
>
> In 1998, NSW Health funded NCOSS to undertake a study into transport issues the results of which were published in their report "Transport to access health services in rural and remote New South Wales"—released August 2001.
>
> The issue of transport to access health services is a priority for NSW Health and the Government as part of the NSW Government's Action Plan for Health, particularly for people living in rural and remote NSW. Significant work has been done and is continuing to be done which addresses the recommendations of the NCOSS report.
>
> To allow adequate time for implementation of the revised arrangements so that an appropriate evaluation can be undertaken, NSW Health will not consider another review of the Isolated Patients Travel and Accommodation Scheme until at least June 2002.

CENTRAL COAST ANTISOCIAL BEHAVIOUR

The Hon. JOHN DELLA BOSCA: On 27 September the Hon. Dr Brian Pezzutti asked me a question without notice concerning antisocial behaviour on the Central Coast. The Premier provided the following response:

I am advised by Superintendent A. Clarke, Tuggerah Lakes Local Area Commander, that patrols are targeting crime hotspots and recidivist offenders within the Bateau Bay area. Police have targeted the Bateau Bay area through local operations, and utilising the resources of the Region Target Action Group, Highway Patrol and Licensing police.

I am also advised that there are over 160 sworn officers providing a policing service to communities in the Tuggerah Lakes Local Area Command.

These officers conduct both covert and overt operations. Overt operations enable the Service to be seen out on the streets and assists to reassure members of the community that their community is safe. Covert operations, on the other hand, enable police to conduct operations without forewarning criminals of their activities and strategies. This simply means that whilst the Bateau Bay area is regularly policed, it may not always appear obvious to members of the community.

I am also advised that the Crime Prevention Officer has conducted a safety audit on the Shelly Beach Surf Club and car park and the area has been included in taskings for the Command on a regular basis. The Commander assures me that police will continue to conduct operations in the area in the coming months and holiday periods.

NATIONAL PARKS AND WILDLIFE REGULATION

The Hon. CARMEL TEBBUTT: On 25 September the Hon. Elaine Nile asked me a question without notice regarding proposed amendments to the national parks and wildlife regulation. The Minister for the Environment provided the following response:

In accordance with the *Subordinate Legislation Act 1989*, the draft *National Parks and Wildlife Regulation* and associated Regulatory Impact Statement will be released for public consultation in the near future.

This Regulation will incorporate the existing *National Parks and Wildlife (Land Management) Regulation 2001*. Activities such as abseiling, rock climbing, white water boating and caving will continue to be permitted in national parks and reserves.

However, base jumping has been identified by the National Parks and Wildlife Service (NPWS) as an activity for which it will not consider granting consent.

I can assure the Honourable member that the final draft of the Regulation will not contain a provision that prohibits the carrying, possession or use of equipment associated with these activities.

SOUTH COAST CHARCOAL PLANT TIMBER SUPPLY

The Hon. CARMEL TEBBUTT: On 25 September the Hon. Ian Cohen asked me a question without notice regarding South Coast charcoal plant timber supply. The Minister for Energy provided the following response:

Australian Silicon, the proponents for the proposed silicon smelter at Lithgow, have announced the South Coast as its preferred location for the carbon reductant facility which will supply the required charcoal material from forest wastes.

State Forests has addressed Australian Silicon's proposal by supplying the proposed charcoal plant by re-directing the waste stream from timber production consistent with the Southern Regional Forest Agreement and Integrated Forestry Operations Approval.

A range of technical assessments have been used to validate State Forests' assessment of residue timber available for the proposed project. These include:

State Forests of NSW (2001) Draft State Forests South Coast Region Residue Wood Supply Forecasts (Draft 11 April 2001).

Turner, B.J. (1998) Review of FRAMES data for the Upper North East and Lower North East RFA Regions of NSW. 17pp.

State Forests of NSW (2001) Yield Simulator, Southern CRA Region. A project undertaken as part of the Comprehensive Regional Assessments. Project number NA14/FRA. 51 pp.

Leech, J.W. (2000) Consultancy Report. Review of State Forests capacity to supply wood to Australian Silicon Pty. Ltd. 12pp.

State Forests of NSW (2001) State Forests South Coast Region Residue Wood Supply Field Sampling – Stage 1. 9pp.

I would be pleased to have State Forests brief the Hon Ian Cohen, or any member of the NSW Parliament, on the proposed timber supply for this proposal.

DUKE OF EDINBURGH AWARD SCHEME

The Hon. CARMEL TEBBUTT: On 26 September the Hon. John Ryan asked me a question without notice regarding the Duke of Edinburgh Award Scheme. The Minister for Community Services provided the following response:

(1) The Duke of Edinburgh Award Committee is made up of 11 members and a Chair. The position of Chair is currently vacant, however, the Committee continues to oversee the scheme. Mr John Kane is undertaking the role of Chair in the interim.

(2) I am advised that the vacancy of Chair will be filled, as a matter of urgency.

(3)-(4) The Scheme is to be transferred from the Department of Community Services to the Department of Sport and Recreation. The transfer is expected to occur in January 2002.

WESTERN PLAINS ZOO EUTHANASIA PROCEDURE

The Hon. CARMEL TEBBUTT: On 24 October the Hon. Richard Jones asked me a question without notice regarding the Western Plains Zoo euthanasia procedure. The Minister for the Environment provided the following response:

1. Veterinarians at Western Plains Zoo do not need to seek permission from Taronga Zoo to euthanase animals on veterinary grounds.

   Veterinarians at both Taronga and Western Plains Zoos have full authority to euthanase animals which are injured, ill, in pain or, in the opinion of the treating veterinarian, suffering from the cumulative effects of old age.

2. Decisions on euthanasia on veterinary grounds, i.e. when an animal is suffering, are not delayed and responsibility for such decisions rests solely with the veterinarian in charge on that day. It is completely untrue that some animals in pain or suffering have to wait up to three days for permission to be given.

   Once a decision has been made by the responsible veterinarian that it would be in the animal's best interests to be put to sleep, this is done without delay to minimise any suffering.

3. Not applicable.

DEFERRED ANSWERS

The following answers to questions without notice were received by the Clerk during the adjournment of the House:

ETHNIC COMMUNITIES COUNCIL CRIME PREVENTION RESEARCH

On 25 September the Hon. J. M. Samios asked the Special Minister of State, representing the Premier, a question without notice concerning the Ethnic Communities Council crime prevention initiatives. The Premier provided the following response:

> The Ethnic Communities Council of NSW Inc. has sought financial assistance from the Community Relations Commission for the conference of the Federation of Ethnic Communities' Councils of Australia it is hosting from 25 to 27 October 2001.
>
> In its approach, the Council advised that the duration of the conference had been reduced compared with previous years. The Council included a budget of approximately $58,000 and it indicated that participation was to be sought from mainstream non-ethnic organisations.
>
> Subsequent advice from the Council included a quotation for the use of another venue. The quotation is at a substantially lower price than the first one.
>
> The structure and duration of the FECCA conference have changed which have direct financial implications.
>
> The offer of financial assistance from the Commission has been accepted by the Council.

SCHOOLS INTERNET ACCESS

On 25 September the Hon. Doug Moppett asked the Special Minister of State, representing the Minister for Education and Training, a question without notice concerning schools Internet access. The Minister for Education and Training provided the following response:

> Yass High School was connected via a Telstra ISDN data line in December 1998. This provides a permanent digital connection to the Department of Education and Training's network. The Government is currently investigating methods of improving access to the network for schools across the State.

BANKSTOWN SEXUAL ASSAULT STATISTICS

On 25 September the Hon. David Oldfield asked the Special Minister of State, representing the Minister for Police, a question without notice concerning the rape statistics in Bankstown. The Minister for Police provided the following response:

> As the honourable member is aware, the Premier has recently announced a tough new gangs package which gives police and courts greater powers to make our community safer. The new package also includes a series of harsher penalties for gang crime, including a maximum sentence of life in gaol for multiple offender sexual assaults.
>
> Information sought by the honourable member on the statistical breakdown of sexual assaults in the Bankstown area can be obtained by contacting the New South Wales Bureau of Crime Statistics and Research (BOCSAR) on 02 9231 9190.

UNIVERSITY ADMISSIONS CENTRE TELEPHONE SERVICE

On 26 September the Hon. Patricia Forsythe asked the Special Minister of State, representing the Minister for Education and Training, a question without notice concerning universities admissions centre application deadline. The Minister for Education and Training provided the following response:

(1) Friday September 28, 2001 was the original closing date for all applications without penalty to the Universities Admissions Centre (UAC). However, due to continuing technical problems with the 'Apply-by-Web' facility, the closing date, for current Year 12 applicants only, was extended to Wednesday October 3, 2001.

(2) The Government is aware that the 'Apply-by-Telephone' facility used by Year 12 applicants did also experience technical difficulties intermittently but these were rectified. The UAC InfoLine, which applicants use to change their course preferences, was not made available until Tuesday September 25, 2001. This was because it was adversely affected by the 'Apply-by-Web' facility technical problems.

(3) A letter was sent by UAC to all NSW/ACT Year 12 students who had not yet submitted applications, advising them of the extended closing date and the need to apply using the 'Apply-by-Telephone' facility. The letter should have been received by students on Tuesday September 25, 2001. On Saturday September 22, 2001, information was also posted on the UAC web site, and on Sunday September 23, 2001 schools were advised by email of the closing date extension.

CROSS-CITY TUNNEL AIR FILTRATION

On 26 September the Hon. Peter Breen asked the Special Minister of State, representing the Deputy Premier and Minister for Urban Affairs and Planning, Minister for Aboriginal Affairs, and Minister for Housing, a question without notice concerning cross city tunnel filtration. The Deputy Premier, provided the following response:

My approval of this project was subject to relocation of the ventilation stack and a 5 metre height increase to improve air quality for nearby residents.

The comprehensive environmental assessment for the project concluded there was no justification nor need for filtration equipment.

However I have left open the possibility of retrofitting the stack with filtration equipment if air quality monitoring shows it is justified and technology becomes available.

UNAUTHORISED PLOUGHING FINES

On 26 September the Hon. Malcolm Jones asked the Special Minister of State, representing the Premier, a question without notice concerning Marijuana possession and unauthorised ploughing fines. The Premier, Minister for the Arts, and Minister for Citizenship provided the following response:

This question is based on inaccurate information. The facts are:

There are very tough penalties under the *Drug Misuse and Trafficking Act 1985* for possessing 18 marijuana plants. The maximum penalties range from 2 years imprisonment or $11,000 or both, to 10 years imprisonment or $220,000 or both, depending on whether the charge is dealt with as a summary or indictable offence.

I am advised that it is, of course, up to the sentencing judicial officer to determine the appropriate sentence for a particular case. However, it is unclear where the honourable member has obtained the figure of $100 as a fine for this offence.

With regard to the honourable member's concerns about penalties for ploughing without a permit, I would like to clarify that a person does not necessarily require consent to cultivate a field. The *Native Vegetation Conservation Act 1997* allows farmers to undertake clearing associated with routine farming practices without the need for development consent.

I am advised that there are, as indicated by the honourable member, heavy penalties under that legislation to deter unauthorised and inappropriate land clearing which can, of course, cause serious environmental damage. Under section 46, a fine of up to $110,000 can be imposed for failing to comply with a "stop work" order with a further $11,000 fine for each day the offence continues.

However, this is not the only form of recourse which the Act provides to deal with alleged illegal clearing. I am advised that there is a range of measures that are used in appropriate circumstances to achieve the best environmental outcome. This includes stop work orders, notices for remedial work, and generally working cooperatively with farmers to raise awareness of the benefits of using sustainable native vegetation management practices.

I am further advised that the decision to prosecute a person under the Act, with the potential for heavy fines to be imposed, is not taken lightly and is only made when the particular circumstances warrant it.

SCHOOLS TEXTBOOK FUNDING ALLOCATION

On 27 September Ms Lee Rhiannon asked the Special Minister of State, representing the Minister for Education and Training, a question without notice concerning schools textbook allowance. The Minister for Education and Training provided the following response:

The general operations grant component forms part of the global funding allocation to government schools. Included in this component is a student per capita element based on the number of enrolled students. In the case of students in Years 7 to 10 the rate paid is $87.60 and $136.20 for students in Years 11 and 12. A secondary textbook allowance of $32.79 for each student enrolled in Years 7 to 10 and $81.06 for each student enrolled in Years 11 and 12 is included in this element.

The secondary textbook allowance is paid to government schools at exactly the same rate as that paid to non-government schools.

POLICE ETHNIC COMMUNITY LIAISON OFFICERS

On 27 September the Hon. Helen Sham-Ho asked the Special Minister of State, representing the Minister for Police, a question without notice concerning police ethnic community liaison officers. The Minister for Police provided the following response:

I have been advised by the Manager, Police Service Policy and Programs Unit that the primary role of Ethnic Community Liaison Officers (ECLOs) is to enhance communication between local police and non-English speaking background communities as well as networking with a whole range of stakeholders.

The Honourable Member may be assured that the three ECLOs at Cabramatta provide a service to all local ethnic communities. They have regular contact with a number of Chinese organisations and participate regularly in Chinese festival celebrations. Victim support is also provided by the ECLOs at the Local Area Command and interpreters are used when required.

I trust the honourable member can appreciate that the ECLO Program aims to recruit staff based upon the needs of a local area and its population profile. However, the linguistic background of an ECLO cannot be the sole criteria upon which recruitment is based. Rather, the ability to work within a linguistically and culturally diverse context is emphasised. At present, the Police Service employs 21 ECLOs of a range of language and cultural backgrounds.

The Manager informs me that a fourth ECLO is to be recruited for the Cabramatta Local Area Command and recruitment will be based on persons who meet all selection criteria. I might mention that knowledge of a community language is one selection criterion amongst a total of nine criteria. Recruitment for the second phase of the ECLO Program, including the additional position at Cabramatta, is to occur early next year.

The Honourable Member may be assured that the NSW Police Service is committed to providing a culturally competent service to all its non-English speaking community members.

MULTICULTURAL EDUCATION POLICY

On 27 September the Hon. Dr Peter Wong asked the Special Minister of State, representing the Minister for Education and Training, a question without notice concerning multicultural education policy. The Minister for Education and Training provided the following response:

The Department currently has two policies for multicultural education, the *Multicultural Education Policy Statement* for schools and the *Multicultural Education Policy* for TAFE NSW.

The *Community Relations Commission and Principles of Multiculturalism Act* (2000) has been passed and the Community Relations Commission for a multicultural NSW inaugurated in March 2001. These developments have meant that the policy needs to be revised to reflect the current situation.

The policy document *Learning in a Culturally Diverse Society: The multicultural education and training policy for the NSW Department of Education and Training* is currently being revised by officers of the Multicultural Programs Unit and will be submitted for the Minister's approval by the end of the year.

The Director-General's Advisory Group for Multicultural Education and Training (AGMET) is a forum for consulting key stakeholder groups on matters relating to education and training in a culturally diverse society. It was established in 2001 to replace the former advisory groups relating to school education and TAFE NSW.

Several programs have been implemented by the Department of Education and Training and TAFE since 1995. They include: English as a Second Language, Anti-racism education, Multicultural education, Parent and community involvement, Community Languages in Schools, Saturday School of Community Languages (SSCL), NSW Community Languages Schools Program, Multicultural education and training in TAFE NSW, and the Migrant Skills Strategy.

As Minister I am strongly committed to ensuring the best possible education for students and parents from all backgrounds.

SCHOOLS FUNDING

On 27 September the Hon. John Ryan asked the Special Minister of State, representing the Minister for Education and Training, a question without notice concerning school funding. The Minister for Education and Training has provided the following response:

The New South Wales Government's strong commitment to the public education system is evidenced by the funding announced in the 2001/2002 State Budget that provides total recurrent funding for school education of $5,771.3 million, an increase of $298.8 million or almost 5.5 per cent on the previous financial year.

Average recurrent funding per public school student in 2001/02 is $6,914, the highest per capita figure in the history of public education in this State. This is up from $5,035 in 1994/95, an increase of over 37 per cent.

All NSW government schools are provided with global funding allocations from which they are expected to meet the cost of school operations. Global funding allocations are provided to schools based on a combination of historical and formula based information, with consideration given to the relative size of each school, staff and student numbers and a range of special factors that cater for schools with unique circumstances. Global funding has increased by 8.2 per cent over the past five years, providing schools with more funds than ever before for the educational needs of students.

Schools are expected to meet the cost of items such as short term relief, urgent minor maintenance, utilities and related items, equipment repairs and classroom resources from their global funding allocation.

Each school principal, in conjunction with the school finance committee, determines how available funds are applied to meet the school's educational priorities and curriculum requirements. Schools now have greater flexibility to apply available resources to meet local educational priorities, with a supplementation safety net for schools which have overspent their allocations in the areas of short term casual relief and utilities.

In addition, schools are provided with substantial resources in the form of staffing, physical facilities and technological infrastructure. Funding is also provided for targeted programs in areas such as technology, literacy and numeracy, vocational education and services that address equity considerations.

The recurrent budget for school education also includes an expanded school maintenance program, providing $628 million over the next four years. Some $157 million will be spent in 2001/02 to maintain public schools, including schools within the Heathcote electorate.

ROSEMEADOW POLICE RESPONSE TIMES

On 27 September the Hon. Charlie Lynn asked the Special Minister of State, representing the Minister for Police, a question without notice concerning shoplifting in Rosemeadow. The Minister for Police provided the following response:

The Police Service has advised that during the period from 1 June 2001 to the end of September 2001, the Computer Incident Dispatch System (CIDS) revealed only one shoplifting incident involving juveniles in Rosemeadow.

Calls for police assistance are prioritised according to the degree of urgency. An incident of this type is usually a non-urgent call and will be attended to in the absence of calls involving threats to life or that are likely to cause public disruption.

I understand that police from the Campbelltown Local Area Command are routinely deployed to the Rosemeadow area as part of ongoing proactive tasking and the command has conducted local seminars on shoplifting. Shopkeepers might benefit from attending such seminars when conducted in the future, or from contacting the Crime Prevention Officer.

The Honourable Member may also be aware that under the Carr Labor Government the Police Service publishes response times to calls in its annual report. In the financial year 1999-2000, 50% of urgent calls were responded to in 5 minutes and 80% were responded to in 11 minutes. In regard to non-urgent calls, 50% were responded to in 15 minutes and 80% in 40 minutes.

Questions without notice concluded.

WELLINGTON LOCAL ABORIGINAL LAND COUNCIL

Tabling of Documents

The Clerk, pursuant to the resolution of the House earlier today, tabled documents dealing with the Wellington Local Aboriginal Land Council, the subject of a disputed claim of privilege by the Hon. Richard Jones and identified in the report of the independent arbiter, Sir Laurence Street, dated 17 October 2001, as not privileged.

CRIMES AMENDMENT (GANG AND VEHICLE RELATED OFFENCES) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. Dr PETER WONG [5.03 p.m.]: Legislation such as this, and even tougher legislation, does absolutely nothing to reduce crime because it does not address the causes of crime. If the Government and the Opposition were serious they would make the hard decisions necessary to address the real causes of crime and commit resources to better schools, employment programs, recreation programs and programs targeted at young people at risk. There would be greater emphasis on community policing and on improving relations between ethnic communities, youth, and police on the ground.

It is very disturbing that this legislation appears to have been born out of the crime and ethnic communities debate. Earlier this year the Government irresponsibly linked crime to ethnic communities and has

allowed that link to continue virtually unchallenged in the tabloid media. The Government has a responsibility to challenge this public perception that crime is caused by migrant communities. The Government should not pander to public ignorance through legislation such as this. The Government should not promote community fear about crime and ethnic gangs. The Government is creating unnecessary apprehension by making crime appear worse than it really is, and is creating racial tension by making people think that particular ethnic communities are linked to crime. The tabloid media love the headlines they are being handed by the Government, but the community as a whole suffers.

Ms LEE RHIANNON [5.04 p.m.]: I support my colleague the Hon. Ian Cohen, who clearly set out why the Greens strongly oppose this bill. The Government says that this bill will tackle gang crime but it shows only that the Government is interested in headlines rather than improving people's lives. The word "gang" has become ammunition to a desperate Government. And to make sure that voters get an excessive dose of the Government's law and order agenda it will introduce not just one bill but a raft of so-called gang-related bills into this Parliament in coming weeks. All those bills decry the evil gangs that, according to the legally challenged Coalition and Government, are taking over our cities.

Because the Greens' position on justice is so often distorted, I should like to place on record that we believe that every effort should be made to ensure that people do not live in fear. But this legislation is not going to make communities more secure. For a short time, while the shock value of the introduction of this legislation lasts, and the Government is picking up the positive media accolades, there will be to some degree the perception that people are safer. But it will only be a perception. Worldwide experience shows that increasing penalties does not reduce crime. For example, the United States of America has two million people in gaol, the majority of whom are young, black men. All that gaol does is make a generation of deprived people become very angry and bitter.

Yes, we need to work to reduce crime, but we can only do that by ensuring that young people have jobs, education and opportunities to fulfil their dreams and ambitions. The Government has not presented conclusive evidence of an increase in gang-related criminal activity. Undoubtedly there is such activity in New South Wales, but equally undoubtedly it has always existed, and the Government has not produced any evidence of such an increase that would justify this kind of bill. More fundamentally, there is absolutely no evidence that tougher laws, more offences and longer sentences will have any impact on the level of crime. The real giveaway as to the intentions and motivations behind this bill can be found in the crossbench briefing document, which states:

> The Government proposes enhanced law enforcement … in response to community concerns about organised criminal gang activity in New South Wales.

That is the best reason the Government could come up with—no research and no overseas examples of how longer sentences have reduced crime. In the community there is a sense of rising gang crime. It is the lack of real political leadership, the short-sighted expediency, that makes people worry so much about the future of our State. If there is no real increase in crime, gang-related or otherwise—and of course we know that in many cases there is not—the Government must be willing to stand up and say so. If, as we know to be the case, the real solutions to crime are not more police and tougher sentences but more jobs, drug law reform, and improved education and training, the Government should have the guts to say so. However, the Government is exploiting the community's fears in a reckless manner regardless of whether that approach is justified.

The intent is to win electoral support; that is the subtext of these laws. Every time a bill on gang-related matters comes before this House, that is its subtext. I do not know whether that description reminds honourable members of anything, but it is reminiscent of the Federal Government's disgraceful handling of asylum seekers. This bill and other gang-related bills are part of the wedge politics that we will see in all their ugliness leading up to the next State election. Wedge politics rely on fear, insecurity and, often, racism. It is a disreputable and dishonest way to run an election campaign. The Greens will work hard to expose the political damage of exploiting the fear and insecurity that lies behind this legislation. We will oppose this bill and the other gang-related bills that come before this House.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.09 p.m.]: I agree with the Greens about this bill. It is extremely disappointing and quite annoying that the Government continues to introduce an endless raft of law and order legislation that panders to the shock jocks of radio but does not in any way address crime problems in New South Wales. The bill amends the Crimes Act 1900 and creates a separate offence of discharging a loaded weapon in the company of more than one person. New section 33A provides that if the offence is committed in the company of more than one person the penalty will increase from 14 years imprisonment to 20 years imprisonment. New section 33B increases the penalty from 12 year to 15 years for the offence of using or possessing a weapon to resist arrest in the company of more than one person.

Section 35 increases the penalty for malicious wounding or infliction of grievous bodily harm from seven years to 10 years if committed in the company of more than one person. Section 59 increases the offence of assault occasioning actual bodily harm from five years to seven years if committed in the company of more than one person. The Crimes Act already provides a penalty for kidnapping, yet new section 85A provides a new offence of aggravated kidnapping, which carries a penalty of 20 years imprisonment, and especially aggravated kidnapping, which carries a penalty of 25 years imprisonment.

If a person is charged with the offence that carries the heavier penalty, a judge may find a person not guilty of that offence but guilty of the lesser offence. It is likely that this will encourage police to charge offenders with the more serious offence, knowing that if they do not succeed in securing a conviction on that offence, the offender may be found guilty of the lesser offence. This sends a message to the police—and we in this place are big on sending messages to people!—to try for a heavier penalty wherever possible. Interestingly, item [6] of schedule 1 to the bill deletes section 90A from the Crimes Act, which relates to abducting girls under 16 years of age, for which the penalty is three years imprisonment. That section did not connote any suggestion of malice towards the girl so perhaps the penalty of three years imprisonment was not high enough for this Government!

The endless number of penalties being racked up and increased goes on. New section 99 provides that any person demanding property with intent to steal in the company of others is liable to imprisonment for 14 years. New section 154C creates the offence of car-jacking—an imported word. If a person removes an occupant from a car, gets into the car and takes it, that person is liable to 10 years imprisonment or, if it is done in company, 14 years imprisonment. Interestingly, car stealing already carried a 10-year gaol sentence under section 154AA of the Act. If the offence is committed in company it carries another four years imprisonment.

The Hon. Duncan Gay: Car-jacking is different to car stealing.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, and the penalty is four years more if it is committed in company. The offence of car stealing was already there.

Reverend the Hon. Fred Nile: The person is in the car being terrorised.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But the offence is the same. If it is done alone, it is 10 years in both cases, but if it is done in company it is now 14 years; so it has not actually changed. We should relate some simple anecdotes, because debates in this House never seem to rise above anecdotes. The Government never seems to provide evidence for why penalties should be increased, or proof that putting people in gaol decreases crime. It is all done at a shock-jock level.

The people of Bundeena have told me that cars are often stolen there because there is no bus service, and if children want to go out on Saturday night they steal a car. Having gone to wherever they spent the evening, they steal another car to go home. The commission of those offences is often done in a group. Should they be gaoled for 14 years? If a reliable bus service were provided, these offences might not occur. It is acceptable to spend $60,000 a year on keeping one prisoner in gaol but it is not acceptable to provide adequate bus services. This kind of criminalisation is going on.

Section 188 raises the penalty for receiving stolen goods from 10 years to 12 years if the goods received is a motor vehicle. The penalty for unlawful possession has also increased from six months or five penalty units to one year or 10 penalty units if a car is involved. The car is given sacred status under this legislation. Section 315A deals with threatening or intimidating victims or witnesses to an indictable offence, and carries a penalty of seven years imprisonment. The Crimes Act already covers the offence of hindering investigations, and provides for a seven-year gaol sentence, or 14 years for perverting the course of justice. That provision could have been used; it would have had the same result of putting people in gaol.

This bill is about the Government grandstanding by creating new offences, or longer gaol terms for similar offences committed in company. The Government has not attempted to prove that these measures will lessen crime. It has sunk to the lowest denominator of pandering to prejudice rather than attempting to address the problems. Section 351A creates the new offence of recruiting minors into gangs for the purposes of committing criminal activities such as indictable offences, with a penalty of 10 years imprisonment. People might ask why children would be recruited, and the answer is that they can distribute drugs in the least conspicuous way within schools and to other young people. Rather than ask that question and then heavily punish those who are caught committing that crime, we should ask whether our approach to drugs is correct, or whether it provides a breeding ground that tempts children to sell drugs because of the amount of money involved.

The whole approach to drugs is analogous to the imposition of prohibition, when there was much heat and indignation about the horrible effects of alcohol. I have worked in an alcohol ward and seen people vomit 150 bottles of blood, a large amount of it over me, because of alcoholism. I have seen people die of liver failure after 27 admissions to hospital. Alcohol problems should not be taken lightly, but it has been well and truly documented that, despite all the moral outrage about alcoholism, prohibition did not work. All that happened was that organised crime flourished.

Reverend the Hon. Fred Nile: It did work. Alcohol consumption dropped dramatically.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Measured how, one might ask? If alcohol consumption dropped during prohibition, it was felt that the cost to the community in terms of the rise in organised crime did more harm than alcohol would have done, and prohibition was removed. Yet we have learned nothing historically from that. People use different drugs basically for the same social effects, and presumably some die, but coroners have not found that a huge number of people die from using social drugs. Therefore, the conclusion might be reached, however reluctantly, that although those drugs are harmful to some extent, they are not causing a great deal of harm. That is not true of hard drugs, such as cocaine and heroin. However, some drug use being targeted at present is not doing as much harm as the organised crime that profits from it. We must ask whether those drugs are doing more harm than the criminalisation of our youth, the increasing cost of our gaols, and the extension of organised crime, of which gangs are the sharp end of the pyramid.

The Government has produced not a skerrick of evidence that increasing criminal penalties and widening the judicial net will solve the drug problem. The Drug Summit, which was held immediately after the last election, gave the Government almost a mandate to act on the alternative points of view offered concerning a more intelligent approach to the drug problem. Sadly, the Government did not have the guts to take that approach; it went with the shock jocks, and has been conducting an auction with the Opposition about who is tougher on crime. Effectiveness has no part in the Government's definition of "toughness", which is about simple things such as increasing criminal penalties and supposedly "sending messages" that are never received—the Government is strong on "sending messages". There is not a skerrick of evidence that this approach will work.

I congratulate the Hon. John Ryan on his wonderful work on the Select Committee on the Increase in Prisoner Population. The committee released its report today and the Hon. John Ryan conducted much commendable research for it. It is a unanimous report and, although Ms Lee Rhiannon would perhaps have liked it to go a little further, committee members agreed that it is a great analysis of why the State's prison population is increasing.

One does not have to be a rocket scientist to realise that this legislation increases criminal penalties by a few years. If this trend continues and the judiciary receives the message that we want offenders to be gaoled for longer—after all, the judiciary is supposed to respond to legislation passed by Parliament—the prison population will continue to rise, more money will be spent on our prisons, and the universities of crime will continue to overflow. No money will be left for sensible preventative measures such as decriminalising some drugs, treating those with drug addiction problems, and perhaps even funding worthwhile projects for children, such as youth employment initiatives, that discourage their involvement in gang activities. Perhaps buses could be provided in areas where people steal cars to get around.

The Hon. Doug Moppett: I can see the headlines: "Democrats return to transportation" and "Put on more buses".

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: This issue must be addressed sensibly. We do not need mindless interjections from the Opposition that knock any criticism of harsher penalties. The Hon. John Ryan is a guiding light in his party: he has served on the parliamentary committee, analysed the causes of crime, and arrived at some answers. Instead of reading his very good report, Opposition members make silly interjections. Government members are not making silly interjections, but they are introducing silly legislation. Unfortunately, this legislation is a continuation of the Government's hysterical response to crime. It is unworthy of the people of New South Wales, who deserve better. I wish the Government would wake up and improve itself instead of being forced into a law and order auction—which is the path it seems determined to follow.

The Hon. JOHN HATZISTERGOS [5.24 p.m.], in reply: I thank all honourable members who have spoken in this interesting debate. Several speakers said this legislation is not part of a multifaceted approach to

crime, but nothing could be further from the truth. It is necessary to consider this legislation in the context of several other initiatives taken by the Government to address gang-related problems. I refer particularly to the initiatives taken through the Attorney General's Crime Prevention Division that attempt to address many community concerns at a social level.

One such initiative is the Safer Communities Development program, which is the centrepiece of a whole-of-government approach to a crime prevention partnership across metropolitan, regional and rural New South Wales. The program is supported by the Children (Protection and Parental Responsibility) Act 1997. This enabling legislation allows councils across the State to receive assistance from the Crime Prevention Division in preparing and submitting local, community-based crime prevention plans for endorsement by the Attorney General as part of a safe community compact.

The Hon. Duncan Gay: And the Attorney General's Department does everything in its power to stop communities empowering themselves.

The Hon. JOHN HATZISTERGOS: That is not true. Last year the Standing Committee on Law and Justice, of which I am a member, visited a variety of communities in rural New South Wales to examine initiatives undertaken by the Crime Prevention Division. Interestingly, several of the proposals that were taken up received extremely positive responses. I will mention a couple of them. The Ballina community had a problem with Aboriginal youth congregating late at night. The council made a compact and received funding from the Attorney General's Department to enforce move-on powers productively and constructively and ensure that the laws worked properly and adequately. Instead of calling out the police to move on children, community workers talked to them and told them that if they did not return home to a safer environment the police would be called. The workers also provided transport assistance.

We also visited Moree, where we had an interesting discussion with members of the local Aboriginal community and the council. I spoke to Councillor Montgomery, who is a very progressive thinker for a member of the National Party and a person for whom I have some time. I do not know whether he is still mayor, but he was at the time. He was prepared to embrace problems and consider constructive solutions. I know of other communities that have initiated similar projects. Maclean Shire Council participated in the successful community guides project, as did Canterbury City Council in my area. It employed young people to visit areas where gangs of young people congregate to talk to them and provide guidance and assistance about constructive activities on offer in their communities, with a view to dissuading them from engaging in antisocial behaviour.

Let us not have fanciful attacks on the Government and suggestions that we are interested only in crime and law and order initiatives and not in trying to resolve problems at a practical level by engaging the local community. The same programs do not work for everyone. Social development and infrastructure assistance and the sorts of initiatives taken through grant programs and compacts that are successful in some cases may not work in others, so we must adopt different approaches. For example, we provided specific funding for the Aboriginal night patrols that are operating in Kempsey, Wentworth, Forster and Narrandera.

The Hon. Dr Arthur Chesterfield-Evans: It is chickenfeed.

The Hon. JOHN HATZISTERGOS: I do not think it is. If we add up the figures, we will find that these initiatives are working for a lot of people. There will always be some for whom they will not work. We have heard about the hardcore criminal gangs in Cabramatta that are involved in illegal firearms and illicit drug trafficking. I do not suggest we should hold a conference to discuss the problem and say, "This is not nice. You should stop drug-running in schools and selling illegal firearms." These programs do not work for those sorts of people. We must introduce other initiatives. Many crossbench members live in fairyland. The problem with their reaction to the Government's initiatives to increase penalties and police powers is that they think that if we somehow sit down and talk about underlying social problems and getting people jobs the world will be rosy and lives will be suddenly changed. You live in this Utopia.

The Hon. Dr Arthur Chesterfield-Evans: Do you think being imprisoned is rosy?

The Hon. JOHN HATZISTERGOS: Sometimes prison is an appropriate place for people who are transgressors of this community, people who are social misfits and who provide a threat to the living standards of ordinary people. I get sick of this argument that is sometimes raised by the crossbench about the Labor Party and the way it responds to criticism. In many cases Labor people are the victims of crime; ordinary people who want to go about their lives, catch public transport to and from work and go to shopping centres in safety. Those

people have cars, in some cases not very expensive ones, because they live in areas where public transport is not as available as perhaps it ought to be. They need some protection from the sorts of people the crossbench members seem to want to stick up for from time to time.

The Hon. John Ryan: What information have you got that this proposed legislation will protect them?

The Hon. JOHN HATZISTERGOS: The concept is that if people are in prison of necessity because they were continually transgressing, they are not committing offences. It is very simple. The Greens argue about what evidence we have. Ms Lee Rhiannon signed up to be part of an inquiry into Cabramatta policing, which inquiry heard evidence from a number of people about gang activity. She was one of the initiators of the inquiry. We heard from Detective Sergeant Priest, four police officers and the young boy James, who appeared also on Channel Nine, who gave informal evidence about gang-type activity. What was the response of the Greens to that evidence? The Greens were instrumental in setting up this inquiry, and this proposed legislation is their ex nuptial child. The Greens forced the community to react in this way and now they wish to ignore it and pretend it does not exist.

Ms Lee Rhiannon can take some credit for this bill because she signed up to be a part of the inquiry that led to its being recommended as part of the Government's initiatives related to gang activity. I say to those who claim that racking up penalties or improving police powers does not work that it already has worked—I instance the legislation that has been passed relating to the carrying of knives and the various reports to have been produced on the effectiveness of that legislation in protecting people and ensuring that protection. I instance also the drug house legislation, which was opposed by the crossbench.

The Hon. Greg Pearce: Chris Hartcher's policy; give him credit for it.

The Hon. JOHN HATZISTERGOS: I do not mind giving credit to anyone who supports good and sensible initiatives. When the drug house legislation was introduced, crossbench members opposed it because they did not want it. But I remind them of the number of places that have been broken into and I invite them to read the media reports. Many people have been arrested.

The Hon. Dr Arthur Chesterfield-Evans: Do you seriously claim you are winning the drug war?

The Hon. JOHN HATZISTERGOS: It is having an impact, much to your disgust. The crossbench members should go out to the people of Cabramatta and tell them that they do not want legislation that relates to the carrying of knives. They should tell the residents of Cabramatta that we should not have the drug house legislation and the anti-gang legislation. If they do that, the reaction of those residents to crossbench members will be apparent at the next election. They will not be having a press conference with Thang Ngo, I assure them. I say to crossbench members: Tell the people what you think so that they can discover what a vacuous policy you have, which is to distribute heroin to everyone for free. That is an example of the sorts of policies being offered by these fanciful people. I commend the legislation and I thank all those who spoke in meaningful support of it.

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

The House divided.

Ayes, 30

Ms Burnswoods	Mr M. I. Jones	Mr Samios
Mr Colless	Mr Kelly	Mrs Sham-Ho
Mr Corbett	Mr Moppett	Mr Tingle
Mr Costa	Mrs Nile	Mr Tsang
Mr Dyer	Reverend Nile	Mr West
Ms Fazio	Mr Obeid	Dr Wong
Mr Gallacher	Mr Oldfield	
Miss Gardiner	Mr Pearce	
Mr Gay	Dr Pezzutti	*Tellers,*
Mr Harwin	Mr Ryan	Mr Jobling
Mr Hatzistergos	Ms Saffin	Mr Primrose

Noes, 4

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

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT BILL

Second Reading

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [5.43 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The *Crimes (Administration of Sentences) Act 1999* is the principal Act that governs how the Department of Corrective Services administers the sentences imposed upon offenders by the courts. The Act is kept under review in order to embrace new technologies and to facilitate the administration of justice.

This bill will amend the *Crimes (Administration of Sentences) Act 1999* to extend the use of audio and audiovisual technology in the correctional system to proceedings before the Parole Board and the Serious Offenders Review Council. Audio and audiovisual facilities are already being used in relation to bail applications made by people who are remanded in full-time custody.

The principal function of the Parole Board is to determine whether an inmate with a sentence of more than three years, whose non-parole period is about to expire, may be released on parole. The Parole Board also determines applications for revocation of parole orders, periodic detention orders, and home detention orders, as well as carrying out other functions of a more minor nature.

An offender has the right to appear in person at a hearing of the Parole Board or to be represented at such a hearing. Currently, when an offender appearing before the board is a full-time inmate, the Department of Corrective Services must transport the inmate from a correctional centre to the place where the Parole Board is conducting its proceedings.

Such transport arrangements are expensive and, more importantly, might pose a security risk. That is why new clause 11A in Schedule 1 to the Act will provide that, where an audiovisual link is available, a person in custody must appear before the Parole Board by audiovisual link. The person may also give evidence or make submissions to the board by audiovisual link. However, when it is considered to be in the interests of justice to do so, the Parole Board may direct that a person appear physically before the Board.

New clause 11A also enables the Parole Board to direct that a person who is not in custody give evidence or make a submission by audio link or audiovisual link. For example, the Parole Board may direct that a probation and parole officer appear before the board by way of audiovisual link, rather than in person. However, if a party to the proceedings opposes such a direction, the Parole Board must not make the direction unless it is satisfied that it is in the interests of justice to do so.

In order to ensure that a person is not disadvantaged in any way when audiovisual links are used in proceedings before the Parole Board, new clause 11A provides that facilities are to be made available for private communication between the person who is the subject of the proceedings and the person's representative in the proceedings.

The principal function of the Serious Offenders Review Council is to provide advice and make recommendations to the Commissioner of Corrective Services on various matters—particularly in relation to the management of serious offenders. The Review Council may also review segregated custody directions and protective custody directions. When such matters are being considered, an inmate may be required to appear in person before the Review Council before the Council prepares advice or recommendations for the Commissioner. In line with the provisions I have just outlined, a new clause 11A in Schedule 2 to the Act will extend the use of audio links and audiovisual links into proceedings before the Serious Offenders Review Council.

I turn now to the other changes contained in the bill.

The Corrections Health Service has advised that, as section 236A (c) of the *Crimes (Administration of Sentences) Act 1999* uses the term *an infectious disease*, in order to be consistent, sections 23 (b) and 91 (2) of the Act should also use the term. Therefore, the Bill deletes the words "*a contagious or*" from sections 23 (b) and 91 (2) of the Act.

A breach of discipline within the correctional system may be categorised as either a major or a minor offence. For example, behaviour that is considered to be a major correctional centre offence includes possession or administration of a drug and participating in a riot; while behaviour that is considered to be a minor correctional centre offence includes failure to clean yards or failure to attend musters.

Section 26 of the repealed *Correctional Centres Act 1952* imposed an obligation on the governor of a correctional centre to refer to a Visiting Justice any charge that was not a minor correctional centre offence. It also gave the governor discretion to refer to a Visiting Justice a minor correctional centre offence of a serious nature. In contrast, section 54 (1) of the *Crimes (Administration of Sentences) Act 1999* gives a governor the discretion to decide whether major or minor offences should be referred to a Visiting Justice for hearing and determination. New section 54 (1) will conform to the repealed section 26, ensuring that a governor must refer major offences, and minor offences of a serious nature, to a Visiting Justice.

Section 79 (v) of the *Crimes (Administration of Sentences) Act 1999* provides the power to make regulations in relation to drug and alcohol testing. The regulation-making power is to be clarified under section 79 (v1) of the Act to ensure that a certificate that relates to the results of drug and/or alcohol analyses may be accepted as prima facie evidence in proceedings against an inmate who is charged with a correctional centre offence.

The *Crimes (Administration of Sentences) Act 1999* provides that an application may be made to have a community service order revoked if an offender fails to meet his or her obligations under the community service order without reasonable excuse. Courts have determined that, even though an application to have a community service order revoked has been submitted in accordance with the requirements of the Act, the application must be dismissed if it comes before the court after the relevant maximum period of the community service order has expired. The adoption of this approach by the courts means that it is possible for offenders who have failed to comply with the terms of their community service orders to escape sanction. In order to avoid this outcome, new section 115 (2B) will provide that a community service order will be taken to be in force whether or not the relevant maximum period has expired.

Section 173 (1) of the *Crimes (Administration of Sentences) Act 1999* provides that, when a periodic detention order, a home detention order or a parole order has been revoked, the Parole Board must arrange for a revocation notice to be served on the offender as soon as practicable. In order to ensure that offenders who breach such orders are dealt with quickly, it is usual for the Parole Board to issue a warrant for the arrest of the offender and, when he or she is in a correctional centre serving the remainder of their sentence, to issue the revocation notice. A new section 173 (1) will remove any uncertainty about the period covered by the term "*as soon as practicable*". The section will provide that the Parole Board must arrange for a revocation notice to be served on the offender either: *as soon as practicable* after the relevant order has been revoked or *as soon as practicable* after the warrant for the offender's arrest has been executed.

The Commissioner of Corrective Services or a governor of a correctional centre may direct that an inmate be held in segregated custody if the inmate poses a threat to the personal safety of another person, or to the security or the good order of the correctional centre.

Similarly, an inmate may be held in protective custody if their personal safety is likely to be jeopardised if they are allowed to associate with other inmates. An inmate may apply to the Serious Offenders Review Council for a review of a segregated custody direction or a protective custody direction. In order to ensure that such a review is carried out quickly, a new subsection (3) is to be inserted into section 197. The new provision allows the Review Council to delegate certain judicial functions—that do not require the participation of non-judicial members—to the Chairperson of the Review Council or a judicial member. This will ensure that reviews of segregated and protective custody directions can be conducted without delay.

Part 10 of the *Crimes (Administration of Sentences) Act 1999* provides for the position of Inspector-General of Corrective Services. The Inspector-General has an extensive range of functions that includes: investigating the operations of the Department of Corrective Services and the conduct of the Department's officers; investigating and attempting to resolve complaints relating to matters within the Department's administration; training Official Visitors; and monitoring and auditing contracts between the Department and private contractors.

The Parole Board and the Serious Offenders Review Council are independent statutory bodies under the *Crimes (Administration of Sentences) Act 1999* and, as such, each publishes a separate annual report.

Although the Inspector-General of Corrective Services is a statutory office, the Inspector-General is currently required to include his annual report with that of the Department of Corrective Services. New subsections in section 220 of the Act will bring the reporting requirements of the Inspector-General into line with those of the Parole Board and the Serious Offenders Review Council. In future, the Inspector-General will publish a separate annual report.

Sections 10 (2) and 11 (3) of the *Crimes (Administration of Sentences) Act 1999* respectively confer upon the governor of a correctional centre some of the Commissioner's functions in relation to the segregated custody of inmates and the protective custody of inmates. A new subsection (4) is being inserted in section 232 of the Act to clarify that the Commissioner may delegate his functions to other persons.

Finally, when officers of the Department of Corrective Services are performing court security and escort functions across the State, they are required to prevent the escape of inmates, and to maintain the security, good order and discipline of people in their custody. However, there have been times when correctional officers have been called upon to assist in restraining people in the lawful custody of police or Juvenile Justice officers. In such situations, correctional officers should be viewed as acting within the scope of their duties. Section 252A is being inserted into the Act to provide correctional officers with a clear statutory power to provide such assistance to a police officer or a Juvenile Justice officer when asked to do so. It will provide certainty and protection for workers who are simply—and appropriately—carrying out their jobs.

I commend the bill to the House.

The Hon. JOHN JOBLING [5.43 p.m.]: The Opposition does not oppose the Crimes (Administration of Sentences) Amendment Bill, which introduces a number of potentially advantageous changes, such as the incorporation of new technology to enable the Department of Corrective Services to administer court-imposed sentences. The main purpose of the bill is to enable the Parole Board and the Serious Offenders Review Council to use audio and audiovisual link-ups in their proceedings. Obviously, the bill makes minor amendments to overcome technical problems in the administration of the Act.

The bill amends section 54 of the Crimes (Administration of Sentences) Act 1999 to require the governor of a correctional centre to refer charges of alleged breaches of major correctional centre offences and alleged serious breaches of minor correctional centre offences to a visiting justice or a magistrate, as the case may be. Although the governor currently has sole discretion, it could be argued that such referral could reduce and restrict the discretion of the governor. It could be argued further that governors should retain such discretion because they are the managers and operators of the correctional centres. However, the amendments, if agreed to, will provide greater consistency.

New section 252A will enable a correctional officer, if requested by a police officer or an officer of the Department of Juvenile Justice, to provide assistance to restrain, convey or detain any person in lawful custody. The bill clarifies the regulations pertaining to the admission into evidence of certificates in proceedings against inmates in relation to alcohol or illicit drug charges. These provisions are desirable. The bill will amend section 115 of the Crimes (Administration of Sentences) Act to ensure that when the court sets a date for hearing of an application for revocation of a community service order after the order has expired the court must hear the application expeditiously. The amendment is reasonable, and will clarify the argument by certain courts that such an application cannot be heard for various reasons.

The bill will amend section 173 of the Act to enable the Parole Board, when revoking an offender's periodic detention order, home detention order or community service order and issuing a warrant for the offender's apprehension, to delay giving notice of revocation to the offender until the warrant has been executed. New subsections (2) and (3) of section 220 provide that the annual report of the Inspector-General of Corrective Services will be a separate report and not included as a line item or a small annotation in the annual report of the Department of Corrective Services. Clearly, people reading the report will have those matters drawn to their attention.

Currently, when an offender who is a full-time inmate appears before the board the Department of Corrective Services must transport that inmate from a correctional centre to wherever the Parole Board is conducting its proceedings. Such transportation is expensive, and involves a potential security risk. As I said, the Act is to be amended to enable the Parole Board and the Serious Offenders Review Council to use audio and audiovisual link. The use of such equipment will, in most cases, overcome the necessity for an inmate to appear in person before either the Parole Board or the Serious Offenders Review Council. However, there are some exceptions to this procedure.

Whilst the Opposition accepts that there are arguments for and against serious offenders not appearing in person before either tribunal, it believes that the relatives of the victims have certain rights in such cases. On previous occasions they have expressed concern that an offender is not obliged to appear in person, and they do not have the right to express their views prior to the offender's possible release. Some relatives have expressed the view that a skilful offender might be able to put a more compelling case to the board or the council by way of audio or audiovisual link than might be the case if that offender were to appear in person. To that end the Opposition takes the view that serious and violent offenders should not be released unless they have appeared in person before either the Parole Board or the Serious Offenders Review Council. With those few comments, the Opposition does not oppose the bill.

Reverend the Hon. FRED NILE [5.52 p.m.]: The Christian Democratic Party supports the Crimes (Administration of Sentences) Amendment Bill, which provides for the introduction of audio and audiovisual links in proceedings before the Parole Board and the Serious Offenders Review Council. We believe that the use of this modern technology is important and will only improve the operation of the Parole Board. We support the bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.53 p.m.]: This bill contains various amendments relating to the use of audio and audiovisual links in proceedings before the Parole Board and the Serious Offenders Review Council. Among other things the bill implements the revocation of periodic and home detention orders, and the referral of correctional centre offences to a magistrate. It will also amend section

23 of the Act, which outlines the circumstances in which a governor can transfer a prisoner. The amendment will remove the provision that an inmate cannot be transferred if there is an outbreak or threat of contagious disease. Under this amendment, inmates can be moved if there is an outbreak of infectious disease.

A similar provision applies in respect of an offender in periodic detention or serving out an order. Item [2] of schedule 1 to the bill will amend section 23 of the Act to provide that an offender can take leave of absence if the commissioner is of the opinion that the inmate suffers a disease that may place his or her safety or the health and safety of others at risk. Item [3] will amend section 54 to remove the governor's discretion in referring an inmate's breach in respect of offence to a visiting justice. This may give inmates an opportunity to have their cases heard by an independent body, instead of being subject to the possible vindictiveness of a guard or the governor of the gaol. Item [4] will amend the regulation section of the Act to provide regulation-making powers in relation to the taking of blood samples from inmates for drug and alcohol consumption, and their use as evidence in proceedings.

Item [7] will amend section 173 to provide that the Parole Board must serve a revocation notice on an offender as soon as practicable if the offender's parole, or periodic or home detention order, has been revoked. Item [9] of schedule 1 will amend section 220 of the Act to require the inspector-general to furnish annual reports for tabling in both Houses of Parliament. Item [11] will insert a new section 252A in to the Act, which will provide that a correctional officer may, if requested, assist special constables in the transportation and restraint of people in custody. The amendment is designed to address a loophole whereby, under the status quo, Corrective Services officers are not empowered by law to prevent prisoners from escaping while attending court hearings. Items [12] and [13] will insert new clauses in schedules 1 and 2 to the Act relating to the use of audio and audiovisual links in proceedings before the Parole Board and the Serious Offenders Review Council.

The Democrats believe that the provisions relating to the movement of prisoners and the use of audio and audiovisual links are indications that the State's gaols are so full that often, when an offender is moved for the purposes of a court hearing, someone has to be moved in the opposite direction. It is a little like the board game solitaire, where every hole in the board is full and if one peg is moved another peg has to be moved into the same hole. This is part of the problem with having too many prisoners in the State's gaols, an issue referred to on other occasions by the Australian Democrats. We do not have any objection per se to the use of audio and audiovisual links, provided the rights of prisoners are respected. We are, however, somewhat concerned that prisoners who may wish to appear in person may be intimidated because they feel that if they demand to appear in person it will cause inconvenience, raise the ire of those involved and prejudice their case. They are in a powerless position so far as stating their case is concerned.

Given the difficulty of moving people within a system that is so appallingly overcrowded, there will be pressure to use these audio and audiovisual links more and more often. We believe their use has to be monitored extremely closely. The proposed legislation envisages this happening only in relatively non-contentious cases, but the Democrats will be watching closely to ensure this does not become the normal course of events in all serious cases, with consequent prejudice to the rights of prisoners receiving a fair hearing. Although we do not oppose the legislation, we want our concerns put on the record.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [5.57 p.m.], in reply: I thank honourable members for their contributions and support, and commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

COURTS LEGISLATION AMENDMENT BILL

Second Reading

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [5.59 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Government seeks to amend certain Acts relating to the courts and court procedures.

The first proposal in schedule 1 of the bill amends section 2 (a) of the *Costs in Criminal Cases Act 1967* to provide that a cost certificate may be granted, in certain circumstances, where the Director of Public Prosecution directs no further proceedings.

The Director of Public Prosecutions may make no further proceedings directions and decisions to offer no evidence for a number of reasons including public interest discretionary grounds. To meet the defendant's legal costs in all of these cases out of public funds would be inappropriate. However, where the trial or hearing has commenced and the DPP directs there be no further proceedings, it may be appropriate that a costs certificate be granted.

It is also proposed to amend section 3A of the Act to allow for further relevant facts to be established by the prosecution on the application for a costs certificate, where those facts were available to the prosecution at the time of the decision to institute the prosecution was made and were not able to be adduced in the proceedings.

Schedule 2 of the bill amends sections 13 & 18 of the *District Court Act 1973* to allow for the appointment of judges from other States as judges and acting judges of the District Court where an appropriate need arises.

Schedule 3 of the bill amends section 2 of the *Judges' Pensions Act 1953* to include the Chief Judge of the Land and Environment Court within the definition of "judge".

This is to correct an oversight at the time the judges of the Land and Environment Court were included in the definition of "judge" in the *Act.*

Schedule 4 of the bill amends section 68 of the *Jury Act 1977* to permit disclosure of jurors' particulars and information on the deliberation of juries by the Sheriff to a court or proper investigating authority.

In 1996 the Standing Committee of Attorney's-General (SCAG) agreed in principle to adopt the provisions contained in an Australian Capital Territory draft *Juries Bill* as a minimum standard for the protection of jury deliberations and to prevent the disclosure of the identity of jurors. The draft bill also provided for exemptions to disclosure where the disclosure was made to a court, royal commission or board of inquiry, the Director of Public Prosecutions or a police officer investigating an alleged contempt of court or alleged offence relating to jury deliberations.

It is therefore proposed to amend section 68 of the *Jury Act* to permit disclosure of jurors' particulars and information on the deliberation of juries to a court or proper investigating authority in similar terms to the model legislation agreed to by SCAG.

Schedule 5 of the bill amends various provisions of the *Justices Act 1902* relating to committals proceedings.

In March 1999 the NSW Attorney General established the Committal Review Committee to monitor the effects of amendments to committal proceedings. The Committee concluded that the scheme was functioning as intended by the Act but recommended some technical amendments. Further amendments were also proposed by the Chief Magistrate, the Director of Public Prosecutions and the Legal Aid Commission.

i. Amendment of section 48E Justices Act

Section 48E of the *Justices Act* provides that a magistrate may direct a witness to attend for examination if there are "special" or "substantial reasons why, in the interests of justice the witness should attend to give oral evidence." It is proposed to amend s 48E to also provide for a witness to be examined by consent.

ii. Repeal of section 41(1B)(d)(ii) Justices Act

Section 41 (1B) (d) of the *Justices Act* provides for a committal hearing where the defendant fails to appear and allows the prosecution to adduce evidence in the absence of the defendant if no good or proper reason is shown for the absence of the defendant, and a warrant for the apprehension of the defendant is issued.

Apart from serving no useful purpose, there is a danger with this procedure that the first instance warrant may be inadvertently circulated resulting in the defendant being apprehended and brought before a Local Court when the matter has already been committed to the District Court. It is therefore proposed to repeal section 41 (1B) (d) (ii).

iii. Amendment of section 48E(6) Justices Act

The combined effect of sections 48E (5) and 48E (6) of the *Justices Act 1902* is to make the statement of a prosecution witness in respect of whom a section 48E order has been made, inadmissible in circumstances where the defendant fails to attend the committal hearing. The proposed amendments will allow the Magistrate to withdraw a section 48E direction in circumstances where the defendant does not appear.

iv. Amendment of section 41 (11) Justices Act

In order to commit a defendant for trial or sentence, a magistrate must be satisfied that there is a case to answer, which often involves the magistrate reading a lengthy brief of evidence. This process is appropriate where the accused is unrepresented or there has been a defended committal hearing. However, in cases where the accused is represented and both the DPP and the legal representative for the accused agree that the matter should be committed for trial or sentence it is appropriate for the matter to be committed by consent. It is therefore proposed to amend section 41 of the *Justices Act 1902* accordingly.

Schedule 5 of the bill also amends section 123 of the *Justices Act 1902* to remove the requirement for an appellant to seek leave of the District Court to appeal where the appellant has not made an application under section 100G of the Act.

The intervention of the Attorney has traditionally been an option for review open to persons who do not have any right of review in a court. It is considered inappropriate to require parties to use the section 100G remedy before exhausting their right of appeal to the District Court.

Schedule 5 of bill also repeals section 100P of the *Justices Act 1902* which prohibits a person from lodging an application for annulment to a Local Court under section 100D of the Act or an application under section 100G to the Minister for referral back to a Local Court if an appeal or an application for leave to appeal has been made to a higher court. The prohibition also applies to people who have withdrawn their appeal or whose applications for leave have been refused.

Schedule 5 of the bill also amends section 120 of the *Justices Act 1902* to clarify that appeals to the District Court may only be made after a matter has been finalised in the Local Court and to provide the Crown with a right to appeal against cost orders made at the conclusion of committal proceedings.

Section 120 of the *Justices Act 1902* does not allow the Crown to appeal against a costs order made after a committal hearing in the Local Court. The failure to allow for such an appeal appears to be an oversight that is to be corrected.

Schedule 6 of the bill amends section 199 of the *Legal Profession Act 1987* to apply the costs assessment scheme to costs paid by third parties in mortgage and lease transactions. The proposed amendment will provide an appropriate means of ensuring that third parties in mortgage and lease transactions are charged fair and reasonable legal fees.

Schedule 6 amends section 208 of the *Legal Profession Act 1987* to allow the court to exercise a discretion to refer an appeal to 'the proper officer' for assignment to a review panel where a review has not been undertaken.

Schedule 6 also amends section 199 of the *Legal Profession Act 1987* to remove the term 'proper officer of the Supreme Court' from the Act and to replace it with the phrase 'Manager, Costs Assessment'. This title more accurately reflects the role and functions of the office.

Schedule 7 of the bill amends section 59 (1) of the *Local Court (Civil Claims) Act 1970* to expand, in certain circumstances, the nature and value of personal property which a judgment debtor would be entitled to retain when a writ is executed by the Sheriff. The personal property contemplated are tools of trade, plant and equipment, professional instruments and reference books to bring it in line with bankruptcy legislation. The amount prescribed by the *Bankruptcy Rules* for similar items is $2000. This will ensure that debtors can retain sufficient tools of trade to enable them continue in employment in order to pay their debts.

Secondly, where the goods to be seized are of so little value that the cost of the sale, storage and removal of the goods is likely to exceed the amount to be recovered, that property will be excluded from seizure—again in line with bankruptcy legislation.

Schedule 8 of the bill amends section 84 of the *Victims Support and Rehabilitation Act 1996*, to strengthen the protection given to crime victims' compensation and approved counselling files—prohibiting applications for victims compensation and supporting documents from production for use in any criminal proceedings, other than proceedings in which the applicant is the accused.

It is considered appropriate to amend section 84 of the Act to clarify that the section applies to any documents held by the VCT in relation to applications for statutory compensation and approved counselling.

All of the amendments contained in this bill will improve the operation of the courts of New South Wales and I commend the bill to the House.

The Hon. JAMES SAMIOS [6.00 p.m.]: The purpose of the Courts Legislation Amendment Bill is to make a number of amendments to legislation regarding courts and court procedures. The bill will amend the Costs in Criminal Cases Act 1967 to provide that a cost certificate may be granted in certain circumstances when the Director of Public Prosecutions decides not to continue a prosecution. The bill amends the District Court Act 1973 to allow judges or former judges from other States or Territories to be appointed as judges or acting judges in New South Wales. The Attorney General has not indicated the circumstances in which judges from other States or Territories would be appointed as judges or acting judges in New South Wales but, for instance, if a New South Wales judge were being investigated there would be merit in bringing in a judge from outside the State to deal with the case. The bill amends the Judges' Pensions Act 1953 to ensure that Land and Environment Court judges are included in the definition of "judge" under the Act. I understand from what was said in the other place that the amendment has been necessary because of an oversight relating to the payment of pensions.

The Jury Act 1977 will be amended to permit courts and certain law enforcement agencies to obtain information from jurors and former jurors when they are investigating a contempt of court or an offence relating to jurors or juries. The Coalition will decide whether to support the foreshadowed Australian Democrats amendment when it has had time to consider it. The bill makes a number of amendments to the Justices Act 1902 relating to committal proceedings and appeals. The amendments are in response to recommendations from the Criminal Review Committee established by the Attorney General in March 1999, and are largely technical in nature. The bill amends the Legal Profession Act 1987 to provide that the proper officer of the Supreme Court in relation to a cost assessment matter is the Manager, Costs Assessment in the Attorney General's Department. The bill also makes amendments relating to costs assessment procedures. The bill amends the Local Courts (Civil Claims) Act 1970.

Schedule 7 contains an amendment to expand from $500 to $2,000 the value of personal property, tools of trade and equipment that a debtor is entitled to keep when a writ is executed by the sheriff. The shadow Attorney General in another place indicated that a Coalition government may wish to reconsider this change because it could make it unreasonably difficult for a creditor to obtain full satisfaction for a judgment he has obtained. There are other amendments relating to seizure of goods by a sheriff or bailiff. The bill amends the Victims Support and Rehabilitation Act 1996 in relation to the admission and use of certain documents relating to compensation and approved counselling services under the Act. The amendments are largely housekeeping amendments of an administrative or technical nature. The Law Society has been consulted by the Coalition in relation to the amendments to the Acts. The Coalition does not oppose the bill.

Reverend the Hon. FRED NILE [6.05 p.m.]: The Christian Democratic Party supports the Courts Legislation Amendment Bill. One of the objects of the bill is to amend the Costs in Criminal Cases Act 1967 to provide that a cost certificate may be granted under that Act in cases where, after a trial has commenced, a defendant has been acquitted or discharged. Also, a prosecutor may adduce additional evidence to the judge, the court or justices for the purposes of determining whether to grant a cost certificate, being evidence that was in the possession of the prosecutor at the time the decision to institute criminal proceedings was made and that was not produced in the proceedings. We support other minor amendments in the bill for the greater efficiency of our judicial system.

The Hon. IAN COHEN [6.06 p.m.]: The Greens support the Courts Legislation Amendment Bill. The bill makes minor amendments to a variety of Acts, including Acts that deal with the District Court, juries, judges, judges' pensions, costs in criminal cases, the Local Court, the legal profession, and victims' support and rehabilitation. I will deal with just a few of the amendments. Schedule 7 to the bill is supported by the Greens. Section 59 of the Local Courts (Civil Claims) Act sets out the property that can be seized from a person under a writ of execution. A writ of execution comes into play if the person has outstanding debts and there has been an approach to the Local Court to recover some or all of the debt. Section 59 is very specific.

All goods, chattels and other personal property—other than real chattels—can be seized, except a person's clothes and any bedroom and kitchen furniture, and any ordinary tools of trade, plant, equipment and professional instruments and books to the value of $500. This section is very discriminatory against tradespersons, who often have thousands of dollars tied up in their tools of trade. Tradespeople need their tools to gain employment and, in the case of debts, need their tools to help them get out of debt. The Government is increasing the minimum value from $500 to $2,000. The Greens believe this figure should be higher but we acknowledge that $2,000 is substantially higher than $500. The amount of $2,000 worth of equipment would be a fraction of the amount needed to undertake some trades.

Another amendment is to ensure that if, in the sheriff's opinion, the cost of seizing, removing, storing and selling property under a writ of execution is likely to exceed the total sale price of the property the sheriff can decline to execute that writ. That is important. For example, a person may owe $3,000 and own a $100 television, a beat-up old fridge and a large old couch. That is it. These are large items. They would be costly to remove and store and may be worth virtually nothing when sold. It is pointless to deprive an already broke person of his or her last worldly possessions when seizing them will do nothing to pay off the debt and it will cost money to have them removed. It achieves nothing. I hope the Government will take into account some of the comments and criticisms of the bill. The Greens do not oppose the bill.

The Hon. PETER BREEN [6.09 p.m.]: This bill covers a number of aspects of courts administration. I am particularly interested in those provisions that deal with the question of legal costs. The bill amends the Costs in Criminal Cases Act 1967 to broaden the category of defendants eligible to be granted a certificate for the payment of costs to include defendants who are acquitted or discharged after a trial. I applaud the Government for recognising that some people who go to trial are innocent, and when they finally establish their innocence the potential financial cost can be astronomical. Perhaps my only reservation about the provision is the rider that the prosecutor may adduce additional evidence that was not tested in the trial for the purposes of deciding whether a cost certificate should be granted.

That reservation is reduced by a further provision that allows the person who is acquitted or discharged to comment on the evidence and, with the leave the court, examine any witness giving evidence for the prosecution. This is a necessary safeguard and achieves a certain level of protection so far as it goes. The safeguard is open to abuse, however, and it is not difficult to imagine a dejected prosecutor, having just lost his or her case, placing all sorts of obstacles in front of the defendant who is hoping to secure a costs certificate. I can foresee a particularly unhappy prosecutor trotting out every piece of evidence in the case in an attempt to

justify prosecution of the allegations. In such circumstances a question would arise as to whether the prosecutor was merely opposing the application for a costs certificate or was seeking to justify the prosecution. No clear boundaries are set out in the bill and I hope the good intentions of the bill are not defeated by a zealous prosecutor who takes issue with the discharge or acquittal of a defendant.

Another costs issue in the bill relates to an amendment to the Legal Profession Act to provide for the Manager, Costs Assessment in the Attorney General's Department to be the proper officer of the Supreme Court in relation to costs assessment matters. That provision is simply about giving the proper officer of the Supreme Court a job description, but I would like to say something about the job itself. The relevant officer is a bit like Santa Claus, handing out presents to lawyers, while law consumers questioning their lawyers' bills are often regarded as angry punters trying to spoil Christmas. People become angry when they find themselves embroiled in the Supreme Court costs assessment scheme because it is so patently unfair. Costs assessors are lawyers and they look at lawyers' bills through lawyers' eyes. Law consumers often have quite a different perspective from lawyers. I ask honourable members to take the case of Wayne Lawrence, for example, who has been battling with the costs assessment scheme for years over the patently false bill of a solicitor whom I have previously identified in this House. Last month Mr Lawrence received a letter from the Attorney General seeking to justify the costs assessment scheme. The letter stated:

> The system of costs assessment was intended to introduce a simple, cheap and accessible means of scrutinising the costs of solicitors and barristers. The system was intended to do away with the need for formal arguments to be made by clients or their legal representatives about costs, and to introduce instead speedy, informal processes.

Mr Lawrence says that the system is neither simple nor cheap, and the facts of his case demonstrate that quite clearly. He also pointed out that suing a lawyer for negligence is frequently a waste of time, as there is no independent assessment of the case. Each year the Legal Services Commissioner turns away hundreds of law consumers, because he has no power to investigate negligence. The only place that a law consumer can go is the Law Society, which just happens to run LawCover, the professional indemnity insurance scheme for lawyers. That is a serious conflict of interest for the Law Society, and I spoke about it in this House during debate on the Legal Profession Indemnity (Professional Indemnity Insurance) Bill earlier this year. The Courts Legislation Amendment Bill provides a job description for the person in charge of the costs assessment scheme, but it merely tinkers at the edges of a much bigger problem. The review of the scheme of assessing legal costs is long overdue.

The Legal Services Commissioner says that disputes about legal costs represent the majority of complaints to his office. Lawyers have all the power and control in deciding the basis on which costs are to be paid and the costs assessment scheme is inherently biased against law consumers. I am reminded of the celebrated case of a solicitor, Cedric Symonds, in which a judge ruled that Mr Symonds' fees were manifestly unjust, but three judges on appeal decided that because the unjust arrangement was made in writing the client should pay. Honourable members may be interested to know that in that case the client was a woman who was involved in a Family Court property dispute with her husband. She went to the Law Society for a reference to a solicitor with family law skills. The Law Society gave her three names, including that of Cedric Symonds, and the woman prayed for guidance as to which one she should choose. Mr Symonds received the divine nod and set about drawing up a costs agreement that included photocopying at $12 per page. At the end of the dispute the woman was awarded property valued at $681,000. Unbelievably, her legal bill was $456,000. As Richard Ackland wrote in the *Sydney Morning Herald*, "God works in mysterious ways".

With respect to the costs assessment scheme under the Legal Profession Act and this bill, I am pleased that the relevant provision will enable lessees and mortgagors who have been given a solicitor's bill by the landlord or lender to apply for a review of those costs. However, as a practical matter I wonder how many people will begin a relationship with their landlord or mortgagor on the sour note of a fight over a solicitor's bill. It would be a brave tenant or borrower who takes that course. I have not addressed other aspects of the Courts Legislation Amendment Bill that are unrelated to legal costs. However, I urge the Government to consider the possibility of a review of legal costs. Just this week the Attorney General released a discussion paper on the conduct and discipline of the legal profession. It is a wide-ranging paper and the issues could include the legal costs regime. I urge the Government to undertake, in particular, a review of the Supreme Court costs assessment scheme. I commend the bill to the House.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.16 p.m.]: The Courts Legislation Amendment Bill amends a total of eight Acts covering the administration of the justice system in New South Wales. A substantial part of the bill deals with amendments of an administrative nature, and a number of sections are worthy of note. Schedule 2 amends the District Court Act 1973, and new subsections (1) and (2) of section 13

insert new and more specified selection criteria for judges in the District Court. A person who has been a judge in a higher court or a court of the same hierarchy level in another jurisdiction may be appointed as a judge or an acting judge under this amendment. Schedule 4 amends the Jury Act 1977 to allow the sheriff to disclose the contact details of a juror, or former juror, to statutory crime investigation agencies gathering evidence for another case. The same agencies will also be able to contact and interview jurors or former jurors for the purpose of their investigations. Similar provisions exist under section 42C of the Australian Capital Territory Jury Act 1967.

The Australian Democrats are concerned about the privacy implications of the proposed amendments. It is a worthy of note that this section has a wider application for courts and several crime agencies. Under new section 68 (4) (i) any other person or body prescribed for the purposes of that subsection may utilise that power for their investigations. The amendment also has a retrospective component under which former jurors on cases heard and determined before the commencement of the Act may be approached by crime agencies. My office approached the Office of the Privacy Commissioner about this provision of the bill. The Privacy Commissioner, Chris Puplick, responded by letter dated 9 November. The letter stated:

> The proposed amendments can be seen to depart from the original justification for jury secrecy arising from prominent English civil rights cases in the eighteenth century. The protection of juries and jury deliberations was seen as necessary to protect juries from being tampered with by politicians or the Crown for political purposes. Nowadays jury secrecy is more likely to be seen to promote a general interest in jury impartiality. Concern about jury tampering is more likely to arise in relation to corruption or intimidation by organised crime or threats by relatives or friends of an accused. Nevertheless it would be inadvisable to dismiss entirely the original risk of political, or in a contemporary setting, law enforcement pressure on juries. This leads me to question whether the proposed amendments adequately safeguard juries against such pressures.
>
> The issue I have posed might more properly be seen as a general issue of civil and legal rights rather than a specific privacy issue. However the effect of secrecy provisions is to deliver certain privacy expectations, ie that the names and addresses of jurors will not be disclosed. It needs to be recognised that conferring a right to privacy in a particular context can promote broader social values. The creation of a zone of secrecy around jury deliberations also gives jurors certain expectations as to their privacy, particularly having regard to the retrospective effect of the proposed amendments. Such an expectation does not amount to an absolute right—privacy frequently has to be balanced against competing social interests—but it is legitimate to seek to minimise the effects of any justified incursion into personal privacy.
>
> In this light I would like to raise the following concerns in relation to the current bill. I consider that these concerns could be avoided by appropriate amendment to the bill.
>
> The bill makes no distinction between intervention during the course of a trial and subsequent to its completion. When combined with a range of agencies with different reasons for monitoring or approaching jurors this tends to broaden the scope of potential departures from jury secrecy.
>
> Proposed section 68A provides no obvious protection against, and could be seen to shield, inappropriate approaches to jurors during the course of a trial by parties with a direct involvement and interest in the outcome of the trial—police and public prosecutors. Police or prosecutors may well be the appropriate agencies to respond to allegations of intimidation or subornation which arise in the course of a trial and I would not wish to preclude them from doing so.
>
> Conversely it is questionable whether investigative bodies such as the Police Integrity Commission or the Independent Commission Against Corruption whose role is more limited to misconduct by police or public sector officials arising out of a trial, need to be able to identify or approach jurors during the course of a trial.
>
> Inappropriate approaches could be minimised by more carefully defining the purposes for which specific agencies can intervene in different contexts and at different times.
>
> *An offence relating to a juror* is not obviously limited to offences arising in the course of jury deliberations. It could for example relate to an admission of an unrelated offence by a juror to other jurors in the jury room. This could be seen as going too far to inhibit jury deliberations than is justified by the dangers the amendment is intended to address.
>
> The ability to prescribe by regulation other bodies with the power to intervene appears to minimise the critical nature of the departure from an accepted civil liberties position. Any extension of the proposed powers should be by legislation.
>
> In conclusion, while not opposing the intention of the proposed amendment, I recognise that the way it is implemented does have the privacy (and broader civil liberties) implications which might have been more carefully addressed.

The Democrats' amendments address the matter. I understand that the Government and the Opposition support our amendments. Schedule 5 amends the Justices Act 1902. Under that schedule a magistrate may allow a committal hearing to commence or continue in the absence of a defendant if no good or proper reason has been given for the absence. Mr John McKenzie of the Many Rivers Aboriginal Legal Service sent an email to my office in which he stated:

> It is often the case that a defendant is absent due to good reasons, but those reasons are not before the court at the time of the hearing (usually because some misadventure out of the defendant's control has happened and the defendant is unable to contact the court to advise). In summary hearings there are the fall back provisions under section 100 of the Justices Act to allow a

process of review and re-hearing where good reasons subsequently come to light. I do not believe there are any such fall back provisions in relation to committal hearings. Accordingly, such a defendant would be denied a chance to properly test the case against them prior to the trial before a judge and jury.

Whilst I can appreciate the intention to not allow a committal hearing to be indefinitely delayed by the absence of the defendant, the fact remains that the trial cannot proceed in the absence of the defendant, so there is no real advantage for the system anyway. The proposed change will result in more cases being committed for trial to the District Court than should be the case, creating significant additional cost to the criminal justice system.

If the proposed change is to proceed, it should be accompanied by an explicit provision allowing review and re-hearing by the Local Court under section 100 of the Justices Act.

I ask the Minister whether this will be the case and I seek an assurance that he will refer this matter to the Committal Review Committee for future discussion. With that caveat from the Aboriginal legal service, the Australian Democrats support the bill. I will move my foreshadowed amendments in Committee.

The Hon. JOHN HATZISTERGOS [6.22 p.m.]: I thank all honourable members for their contributions to the debate. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Schedules 1 to 3 agreed to.

Schedule 4

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.24 p.m.], by leave: I move Australian Democrats amendments Nos 2, 3 and 5 in globo. I advise the Committee that I will not move amendments Nos 1 and 4 as circulated in my name. Accordingly, I move:

No. 2 Page 8, schedule 4 [1], proposed section 68 (4) (i), lines 17 and 18. Omit all the words on those lines.

No. 3 Page 8, schedule 4 [1], proposed section 68 (5). Insert after line 18:

(5) Subsection (1) does not apply to the disclosure of information by the sheriff to a person in accordance with an authority granted by the Attorney General for the conduct of a research project into matters relating to juries or jurors.

No. 5 Page 9, schedule 4 [2], proposed section 68A (4) (i), lines 7 and 8. Omit all the words on those lines.

The Democrats share the concern of the Privacy Commissioner about the somewhat unlimited application of this measure. The ability to prescribe by regulation to other nondescript bodies the power to intervene, which may disclose the details of jurors on current and past juries, is a departure from the secrecy provisions that have been the cornerstone of the adversarial and legal systems. The alternative to that disclosure is to simply give it to groups that are involved in research projects into matters relating to juries or jurors so that access to juries can be used in a proper manner to improve court processes and, as such, amendment No. 3 specifies that group. Amendments Nos 2 and 5 take away the broader ability to disclose the identity of jurors to a large number of people. This is a sensible compromise with respect to privacy. I seek support from the Government and the Opposition for my amendments, which I understand will be forthcoming.

The Hon. JOHN HATZISTERGOS [6.26 p.m.]: The Government supports the amendments.

The Hon. JAMES SAMIOS [6.26 p.m.]: The Opposition supports the amendments.

Amendments agreed to.

Schedule 4 as amended agreed to.

Schedules 5 to 8 agreed to.

Title agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

LOCAL GOVERNMENT AND ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (TRANSFER OF FUNCTIONS) BILL

Second Reading

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [6.29 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce this bill as it allows for the controls over the use and management of buildings to be brought into one Act.

Members of the House will remember the major reforms that were passed in 1997 to bring together the process for planning and building approvals.

This bill continues that process by transferring further building related functions from the Local Government Act 1993 to the Environmental Planning and Assessment Act 1979, so that a system of approvals and minimum standards for these functions is maintained.

When the 1997 reforms came into effect, the Local Government Act 1993 still controlled the approval process for the use of a building or structure as a place of public entertainment and the installation of a temporary structure.

These approvals are needed to operate theatres, public halls, cinemas and to erect temporary structures like circus tents or party marquees.

As can be expected, the need for the approval ensured that these buildings/structures were adequately designed and operated so that there was minimal risk to the community from fires and structural collapse.

I am sure that members of the House are aware of recent failures in other countries of these types of buildings and the severe hurt and injury that can be caused.

As you would expect, the management of these buildings can be highly technical, involving the prevention of fires and assurance that the structure is adequate, particularly when there are many people in the building.

There has been much study of the impacts of fire and how fast it can spread through a poorly designed and managed building—it is an important science.

At the time of the 1997 reforms the technical expertise for these matters resided with the Department of Local Government.

It was therefore appropriate that the approval of these building-related activities remained in the Local Government Act at that time.

In 1999 the Government decided to restructure the Departments of Local Government and Urban Affairs and Planning to bring together all the technical expertise for the approval, management and use of buildings, including those used for public entertainment.

It was a sensible decision and has improved the consistency of the Government's management of these matters.

This bill complements the decision to restructure by bringing together the approvals for building into the one Act.

There is also a lot of sense about this bill because it makes it easier to understand the rules and requirements needed to erect and use a building.

Another benefit of this bill is that it removes some duplication that has existed between the Acts for the approvals needed to install a solid fuel heater.

Turning now to the bill.

There are essentially three elements to the bill required to transfer the functions involved; amendments to the Local Government Act 1993, amendments to the Environmental Planning and Assessment Act 1979 and the amendments required to other legislation to recognise the transfer.

Schedule one of the bill contains the amendments to the Local Government Act 1993.

These amendments essentially remove the requirement under section 68 to gain approval for the use of a building as a place of public entertainment, to install a temporary structure on land and to install a domestic oil or solid fuel heater.

Included in the amendments is the repeal of the special provision in section 71 of the Act for the use of places of public entertainment by the Crown.

Also included in schedule one is an amendment to section 92 of the Local Government Act to recognise any accredited designs or processes endorsed under the Environmental Planning and Assessment Act 1979.

That Act sets out a process for the endorsement of products which relieve a council from the need to reassess a product when granting an approval.

The amendment removes the current duplication that requires accreditation for a product under both.

Schedule two provides the amendments to the Environmental Planning and Assessment Act 1979 that will allow places of public entertainment, temporary structures and the installation of solid fuel heaters to be managed through the development approval process.

The schedule contains amendments to the definition of a building and the introduction of new definitions relating to places of public entertainment.

Amendments are made to allow the Regulations to cover the ongoing use of places of public entertainment and set appropriate standards.

There is also the inclusion of powers to allow for enforcement action for the new function, like issuing orders, which can be issued by councils where buildings don't comply with the relevant standards.

Clause 5 of schedule two contains a new section to govern how the Crown is to ensure that its theatres and public halls are safe—from the Sydney Opera House to the numerous school halls across the State.

The proposed section 116GA will require the Crown to certify that its buildings comply with all the relevant standards where they are used for public entertainment.

Those standards will be contained in either an environmental planning instrument, or the regulations.

This is similar to the system that currently operates for the Crown when a new building is constructed.

Essentially the amendments have been designed to allow the system of environmental planning under the Act to set out the requirements that will need to be met for new proposals to get approvals from councils for public entertainment, temporary structures and installation of solid fuel heaters.

Before the changes start operation a number of State environmental planning policies [SEPPs] will be made to deal with the standards and other regulatory processes involved in these transferred functions.

I will ensure that there is sufficient time for councils to understand and prepare for the new processes before they start.

A SEPP will be prepared to require development consent for any new use of a place of public entertainment.

The SEPP will include the types of issues that councils will need to look at when considering an application, including the standards that the buildings will need to meet so they can be safely used for public entertainment.

Crown buildings used for public entertainment will not be required under the SEPP to get development consent from the council, but the Crown will still be bound by the self certification procedures I referred to earlier.

A similar approach will be used for temporary structures, although it is likely that some of these structures will be categorised as complying development.

This will allow a fast simple approval for the installation of simple structures like party marquees and the like.

There may be some structures, particularly film sets, that do not need any approval provided they meet relevant standards.

These minor structures can be classified as exempt development.

A SEPP for the installation of solid fuel heaters is not necessary as these are already regulated under the Environmental Planning and Assessment Act as building work.

However, councils will be encouraged to review their local environmental plans to ensure that the installation of solid fuel heaters can be exempt development, provided that appropriate standards are met.

Transferring the regulation for the installation of heaters will not affect legislation applying to other aspects of heater use.

Solid fuel and oil heaters are also regulated by the EPA both in the design and construction phase, under the Protection of the Environment Operations Act 1997 and at the operation stage through pollution controls.

Clause 12 of schedule two contains the savings and transitional provisions that will govern how existing approvals will continue to operate.

These provisions will allow the conditions applying to approvals under the Local Government Act to still apply until July 2003.

By this time amendments to the Environmental Planning and Assessment Regulation 2000 will be made to set out the standards and conditions applying to the continuing use of these buildings and structures.

However, approvals that expire before July 2003 will not be extended.

Schedule three of the bill contains amendments to other Acts.

These amendments primarily involve changing references from the old system to the new.

As I said earlier, this bill is an entirely sensible series of amendments to transfer functions from one Act to another.

The Government has put forward these amendments in recognition that an easier and more comprehensive system to manage our buildings comes from having all the approvals in one Act and managed under one system.

I commend the bill to the House.

The Hon. DON HARWIN [6.29 p.m.]: It is not necessary to detain the House for long as the Local Government and Environmental Planning and Assessment Amendment (Transfer of Functions) Bill provides for administrative arrangements that are already in place. The 1997 amendments to the Environmental Planning and Assessment Act brought together the process for planning and building approvals. This bill transfers further building-related functions to the Act. These functions were carried out by the Department of Local Government at the time, and therefore were left in the Local Government Act. In 1999 the staff transferred from the Department of Local Government to the Department of Urban Affairs and Planning, leaving the Department of Local Government with a very small complement of 67 staff. As a result of these changes, the legislation will now reflect administrative arrangements.

The Environmental Planning and Assessment Act will contain provisions that allow the use of buildings and temporary structures as places of public entertainment, and the installation of temporary structures on land. They will regulate the Crown carrying out developments involving the use of a building as a place of public entertainment, enable a local council to issue orders requiring a place of public entertainment to be upgraded to relevant standards, and incorporate powers for the installation of solid fuel heaters in one Act. As this bill is not controversial, the Opposition will not oppose it.

Debate adjourned on motion by the Hon. Peter Primrose.

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

PUBLIC FINANCE AND AUDIT AMENDMENT (AUDITOR-GENERAL) BILL

In Committee

Consideration of Legisative Assembly's message.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [8.21 p.m.]: I move:

That the Legislative Council does not insist on amendments Nos 1, 2 and 4 disagreed to by the Legislative Assembly in the bill but proposes further amendments in the bill as follows:

No. 1 Page 3, schedule 1 [1] (proposed section 27B). Insert after line 27:

(5) The Auditor-General may, in the exercise of his or her functions, have regard to whether there has been:

(a) any wastage of public resources, or

(b) any lack of probity or financial prudence in the management or application of public resources.

No. 2 Page 6, schedule 1. Insert after line 8:

[14] Section 52

Insert at the end of the section:

(4) The Auditor-General must not make a report under this section unless, at least 7 days before making the report, the Auditor-General has given a summary of the proposed report (or of the relevant part) to the Head of each authority to which it relates or which, in the opinion of the Auditor-General, has a special interest in it. The Auditor-General is to include in the report any submissions or comments made by the Head of an authority or a summary, in an agreed form, of any such submissions or comments.

Honourable members will recall that when this bill, which seeks to widen the powers of the Auditor-General, was last before the Legislative Council an Opposition amendment based on a suggestion from the Auditor-General was carried. That amendment sought to give the Auditor-General the function:

> … to promote public accountability in the public administration of the State.

As I said at that time, that provision was completely unacceptable to the Government, and it has subsequently been rejected by the Legislative Assembly. The rejection by the Legislative Assembly and the Government is based on our belief that, while the Auditor-General should have adequate powers to perform his or her audit and audit-related functions, the role of the Auditor-General should not be transformed into that of a commentator-general, and nor should any office holder have a virtually limitless mandate.

The Government believes the Legislative Council's amendment would have given the Audit Office an unfettered mandate to traverse areas in which audit officers have no special expertise and are not expected to have expertise. It would also have given the Auditor-General a function that overlapped the mandates of Parliament, the Ombudsman, ICAC, the Police Integrity Commission, the Administrative Decisions Tribunal and other independent watchdogs. In any event, accountability and limitless mandates sit uneasily together. Effective accountability requires defined mandates that are clear and non-overlapping.

In recent discussions I have had with the Auditor-General, and indeed in his most recent report to Parliament, the Auditor-General has been at pains to point out that it was never his intention that he should be given powers that duplicated or overlapped those of other watchdog organisations. Rather, his concern was to ensure that the Public Finance and Audit Act recognised that a public sector audit should be wider than an audit in the private sector and that the Auditor-General's reporting powers should reflect that wider role. The Government shares that view and believes our original bill would have been adequate for that purpose. The Crown Solicitor has advised:

> The proposed amendment—

that is the Government's original bill—

> will significantly increase the matters upon which the Auditor-General may report in a report pursuant to s. 52(1) or in a special report by permitting him to report on any matter which "relates to" the exercise of the audit or other functions of the Auditor-General.
>
> Provided some relationship exists between the particular matter and the exercise of any of his functions, the Auditor-General will be permitted to report on it. It is likely that most matters upon which the Auditor-General would wish to report will have some relationship with the exercise of one of his functions.

Notwithstanding the Crown Solicitor's advice, the Government has no objection to the Public Finance and Audit Act more expressly recognising the wider role of public sector audits. The Auditor-General has suggested a proposed amendment to the Victorian Audit Act as an appropriate template. This would expressly allow the Auditor-General to have regard to whether there has been any wastage of public resources or any lack of probity or financial prudence in the management or application of public resources. The Government supports that position and commends it to the Committee. Yesterday the Auditor-General made this brief statement:

> Volume Five of the Auditor-General's Report to the Parliament being presented today is a much abridged version of the Report that would normally be tabled.

The Hon. Richard Jones: Your fault.

The Hon. MICHAEL EGAN: No, I do not believe it is. It is the result of the Crown Solicitor's opinion, which interpreted the Audit Act powers more narrowly than I believe anyone had previously interpreted them.

The Hon. John Jobling: It's still an opinion, though.

The Hon. MICHAEL EGAN: It is still the Crown Solicitor's opinion, that is right. I continue the Auditor-General's statement:

> Because of the legislative uncertainty about my reporting powers, I excluded all comment from this Report that would have exceeded the existing powers in the *Public Finance and Audit Act 1983*.
>
> This uncertainty stems from differences between the Legislative Assembly and the Legislative Council in their views on the proposed amendments to the Act introduced by the Government. One of the key differences relates to the breadth of my reporting powers.

> On Friday 9 November, the Treasurer announced that Government has agreed with my view that the role of audit in the public sector should be wider than in the private sector.
>
> The Government accepts that an amendment along the lines of that recently introduced in the Victorian Parliament to widen the Auditor-General's powers would be appropriate in New South Wales. The Treasurer indicated that the Government will seek discussions with the Opposition and Cross-benchers to resolve the problem quickly.
>
> If my powers are amended along these lines, future Reports to Parliament will again include comments on accountability issues such as probity, wastage, and financial management. I would also reissue Volume Five of my Report reinstating the material that has been excluded.

I commend the Government's amendments to the Committee.

The Hon. JOHN RYAN [8.27 p.m.]: On behalf of the Opposition I can only say that what we heard from the Treasurer might appear to have been very civil but I do not believe that the Parliament has heard a more disgraceful attack on the powers of the Auditor-General than what the Treasurer proposed. I remind honourable members that the attack started after the Auditor-General had the temerity, in the Treasurer's view, to report on the Public Debt Elimination Act. The Treasurer was so annoyed that he felt the need to seek the Crown Solicitor's advice on what he thought were the powers of the Auditor-General. I admit that he received more advice than he intended. Nevertheless, that advice resulted in a narrow interpretation of the Auditor-General's powers.

It remains significant to the Parliament to know the Government's view of what the Auditor-General should be doing. This concoction the Government has put before this Chamber is what the Government calls something of a compromise. I draw to the attention of honourable members that included in this compromise is amendment No. 2, which requires that at least seven days before making a report to the House the Auditor-General must give a summary of the proposed report, or the relevant part, to the head of each authority to which it relates, or which, in the opinion of the Auditor-General, has a special interest in it. The Auditor-General is to include in the report any submissions or comments made by the head of an authority, or a summary in an agreed form of any submissions or comments.

This is a second attempt to get something into the Public Finance and Audit Act that was never intended. The Auditor-General has already made his views clear. Apparently, some sort of disgraceful deal has been done between the Treasurer and the Auditor-General. The threat to the Auditor-General is, presumably, that if he does not agree to this disgraceful compromise his powers will not be extended. The Opposition may not necessarily vote against the compromise, but there is no way that it will in any way endorse this disgraceful compromise. I need only use the words of the Auditor-General in giving evidence to a committee of this House to demonstrate what a disgraceful compromise it is.

The very suggestion that government departments and heads of government departments would have the capacity to comment on the Auditor-General's reports issued under section 52 was canvassed in a working paper entitled "Fundamental Review of NSW Financial and Annual Reporting Legislation" that was circulated by Treasury. This document was examined in some detail by General Purpose Standing Committee No. 1, chaired by Reverend the Hon. Fred Nile. What I am about to refer to is meant to be a foreshadowing of legislation that the Government intends to introduce. Page 83 contains a description of the legislation in the following terms:

> Specific provisions will be included to require a copy of the draft report to be given for comment to specified persons and any other parties who, in the opinion of the Auditor-General, may have a special interest in its contents. This is in accord with the principle of procedural fairness.

Does this sound at all familiar? It sounds as though the text of this amendment has been lifted straight from that document. The description continues:

> Copies of the statutory outgoing reports prepared after the completion of each financial statement audit will be provided to the auditee agency and its responsible Minister. The report is to incorporate any significant comment provided by the auditee agency. The Treasurer will no longer receive a copy of the report unless there are significant matters that, in the opinion of the Auditor-General, ought to be brought to the attention of the Treasurer. In future, the Treasurer will rely primarily on the Auditor-General's reports to Parliament.

I read the extended quote to ensure that what I am referring to is quoted in its proper context. Clearly, such an amendment was foreshadowed in this working report that was circulated to other government agencies and the Auditor-General. On 1 May 2000, when General Purpose Standing Committee No. 1 heard evidence from the current Auditor-General, Mr Sendt, he was asked specific questions as to whether he should circulate the reports

he issues under section 52 to various heads of government departments, whether they should put extra material into his report, whether that was appropriate, and whether that constituted any sort of attack on his independence. Mr Sendt replied:

> If you look at the totality of our financial reports for the year and the material that is presented to Parliament I think you would probably quickly appreciate the difficulties if every report had to be formally responded to by a CEO or a Minister. All of our reports—whether it is a report to Parliament or the independent audit report, which is the report which we give as auditors to auditors in the private sector, the report that appears in the annual report—are always discussed with agency management in advance to make sure, as Mr Kelly referred to, that we are not making some error of fact or interpretation.

He said:

> To have a formal response on every issue or every response would be, I think, impractical.

Mr Sendt was then asked further questions, and he said:

> I think Parliament would have to think through the issues that that might raise in terms of timeliness of reporting, taking your point that not all 400 agencies would want to respond to reports. I have statutory deadlines by which I must report. Often for agencies those financial years end on 30 June, which is the bulk of agencies, my reports come out in November and December. The Audit Office is often criticised for the reports coming out too close to Christmas. I can understand that: many people are not around to respond or to analyse the reports. I would be reluctant to have anything happen that would delay the reports.

Mr Sendt said that in the process of preparing his reports he distributes all this information to chief executive officers for their comments in the preparation of his report. But by his amendment, the Treasurer is suggesting that when the report is ready to go to the printer, at the point at which it is ready to come to the Parliament, chief executive officers should have another opportunity to comment, thereby triggering the untimely and untidy situation that Mr Sendt said is impractical. I put the following question to the Auditor-General:

> My concern is whether, if that had to be the case, it would compromise the function of the Auditor-General as an independent officer of the Parliament.

In reply, he said:

> I think there could be an opportunity for that compromise. Governments and Ministers can respond in a style that perhaps even Auditors-General do not use initially. If you then had a report with what I would consider to be a fairly well thought out and well structured report by my office and then with a, shall I say, more passionate attack upon the findings of that report it may be that it would compromise the impact of the report. I am not meaning that simply in the sense that it would take away media attention, but the language of the response might be such that the report itself was diminished.

I sought to clarify that, and I asked the Auditor-General the following question:

> I suppose to some extent you are constrained by certain accounting standards as to what you can say. The Minister making a response on behalf of a department is not necessarily so constrained. He needs to make a response, does he not?

He said, "That is correct." In other words, his concern was that Ministers can argue all sorts of things very passionately, but he is required, under the constraints of the Audit Act, to speak in a much more measured fashion. I put to Mr Sendt:

> Acceptance of the proposal would make you unique, would it not?

In other words, is this a proposal that would make New South Wales different? It sure would.

> **The Hon. Michael Egan:** No, it's not.

> **The Hon. JOHN RYAN:** Mr Sendt said:

> It certainly would. It would be unique in any audit office around the world to my knowledge.

The Minister has indicated that this is not right. I am sure the Minister will say that the Auditor-General does two types of reports, and they should not be confused. One is an efficiency report. There is a requirement for him to leave that material with the agency 28 days beforehand, and to take into consideration any submission. However, section 52 of the Public Finance and Audit Act refers to the statutory requirements of the Auditor-General to report on compliance with various Acts of Parliament. These are not simply comments: they are important statutory requirements of the Auditor-General. He says that, to his knowledge, having to provide this detail and include comments from Ministers would make him unique around the world. If that is not strong enough, I will read further from his evidence. The chair of the committee, Reverend the Hon. Fred Nile, said:

> If I could clarify something. Mr Kelly referred a moment ago to a five-day turnaround provided by legislation.

In other words, the committee discussed what would happen if the Auditor-General were required to comply with a short turnaround. The chair wanted to ensure that this was clear. Again, I will quote extensively so honourable members will hear it in its full context:

> If I could clarify something. Mr Kelly referred a moment ago to a five-day turnaround provided by legislation. You may not be in agreement in principle with that at the moment, but would that be a sufficient compromise?

Mr Sendt said:

> All it may simply do is result in the report being available five days later. But administratively, or mechanically, it is certainly possible.

The chair then said:

> In principle, would you be in favour of this exposure process? It seems that Treasury is leaning in that direction, and legislation is being drafted, although we have not got a copy of it at this stage. We may be able to influence the outcome of that legislation.

If any member of this House has any different view, he ought to listen to Mr Sendt's response:

> I certainly would not be in favour of that, Mr Chair.

There is no doubt where the Auditor-General stands. If the Treasurer has made some other deal, I can only imagine that the Auditor-General agreed to it under duress: "There will be no change to your Act unless you agree to this proposal." The Auditor-General told a parliamentary committee under oath that he "certainly would not be in favour of that". He went on to say:

> … I think it would compromise the independence of the Audit Office. Our client is very much seen to be Parliament, and our reports are directed to Parliament and not to government. As I said, the government is always aware of what is coming because we do not come up with these issues out of the air; we come up with these issues as a result of being out there working in agencies and finding out what is going on. So agencies certainly are aware of the issues.

Mr Sendt went on to say:

> As I said before, I think it would diminish the standing of the reports if there were capacity for response by Ministers on any issues that they wanted to raise. And they have that capacity now.

I wonder where this agreement came from. There is little doubt that the Auditor-General made it absolutely, abundantly clear that he does not agree with the proposals that the Government has put before this House with regard to Ministers and heads of department being able to include material in his reports. I recognise that the Minister has formulated a couple of minor compromises which might address some of those issues and I will be honest enough to point them out. Nevertheless, I point out that the Auditor-General has said he does not agree with them. I would like the Treasurer to say where on earth the agreement for this package came from. Amendment No. 2 states:

> The Auditor-General must not make a report under this section unless, at least 7 days before making the report—

A time constraint is included—

> the Auditor-General has given a summary of the proposed report (or of the relevant part) to the Head of each authority to which it relates—

At least it is limited to the head of the authority to which it relates—

> or which, in the opinion of the Auditor-General, has a special interest in it.

At least the Auditor-General has at least some discretion as to where he might send it, but he is obliged to send it to heads of agencies. The amendment continues:

> The Auditor-General is to include in the report any submissions or comments made by the Head of an authority or a summary, in an agreed form, of any such submissions or comments.

That, I imagine, is supposed to deal with the Auditor-General's other concern that there might be an opportunity to put material in his report in some sort of passionate form. But, again, it is to be in an agreed form. What if there is no agreement? If there is no agreement I imagine the Auditor-General would not be able to release his

report. He obviously cannot comment on the comment. I certainly agree, as the Auditor-General suggests, that in the course of doing an audit the Auditor-General ought to keep the various agencies aware of what he is likely to comment on, and have their response in mind when he reports.

As with every other statutory agency that reports to Parliament—whether it be the Ombudsman, the Independent Commission against Corruption, the Police Integrity Commission or any other—the Auditor-General, of all people, should be in a position to report directly to his client, Parliament, without having various government agencies include in it extra material that he might not agree with or has been asked to agree to. Let me assure honourable members that there is little doubt that the Auditor-General does not believe that this is the best available option. The motion states:

> That the Legislative Council does not insist on amendments Nos 1, 2 and 4 disagreed to by the Legislative Assembly in the bill, but proposes further amendments in the Bill as follows:

It then outlines the Treasurer's compromise. Instead of having the Auditor-General made responsible for promoting public accountability, the Auditor-General will be able to promote public accountability, one imagines, in so far as it involves wastage of public resources or any lack of probity or financial prudence in the management or application of public resources. I would be fascinated to hear from the Treasurer as to whether he would accept a further report on the Government's Public Debt Elimination Act, and whether he would allow the Auditor-General to be able to report freely, without some passionate comment from him at the end. I note that the Government does not insist on amendments Nos 2 and 4. I will detail for the benefit of the House what amendments Nos 2 and 4 were.

Amendment No. 2 allowed either House to make a reference to the Auditor-General, to which he was obliged to respond. The Government wants both Houses of Parliament to have to agree to a reference to the Auditor-General, rather than either House. That means the Auditor-General will only comment on issues that the Government refers to him, not issues that this House might have an interest in, because the Treasurer is frightened. What is the Treasurer running away from? I see nothing to run away from. I cannot believe that the Treasurer is so frightened of allowing information to be made available to this House.

Referring a matter to the Auditor-General it is not something that this House would act on capriciously. I have no doubt that any reference to the Auditor-General under the proposals that were suggested would be toughly contested in this House. It would be necessary to get the numbers, and honourable members know that is not always easy to do. Amendment No. 4, which the House has been asked to disagree with and remove, relates to information made available to the Public Accounts Committee. That committee is chaired and controlled by the Government. Apparently the Government cannot trust its own backbenchers with information!

I could read onto the record the material appended to the final report of this House's general purpose standing committee on appropriation expenditure, which referred to the appropriateness of having open and accountable opportunities for the Public Accounts Committee. I would contend—even though I do not intend to take the time to detail them tonight—that some extensions of the powers of the Public Accounts Committee were intended by the Government. So I am not sure why it has decided to squib on them. I want to make it absolutely clear to the House that this result was never intended by the Auditor-General. I cannot believe that he has agreed to this proposal, except under some level of duress from the Government. I imagine that the stick the Government has held over his head is that it will not agree to anything other than this proposal.

It would undoubtedly be the same threat made by the Treasurer in this House: if we do not agree to the Government's amendments, there will be no change to the Public Finance and Audit Act, and the Auditor-General will be reduced to producing the emasculated report he recently produced, in which some of the pages might just as well have been blank, given the lack of material provided to the House. The Government has said it intends to allow the Auditor-General to do what is normally understood by the term "audit".

There is no doubt from the Auditor-General's report released yesterday—I do not have the specific page references available, but as we are in Committee I could give it later if needed—that the Auditor-General believes that the definition of his requirements are far too narrow in that they require him to merely audit. Mere audit compliance is not sufficient. Sometimes it is necessary for the Auditor-General to discuss issues and make broader comments.

Why would the Government be frightened of that in any way? The Opposition has no hesitation in saying that it supports that level of openness and accountability from the Auditor-General. Obviously the Labor Party does not. That is one area of difference. I challenge the Labor Party, when it goes to the polls in

approximately 12 months, to try to convince the electorate that it ought to be trusted with the Treasury benches when it is not prepared to give the statutory Auditor-General the capacity to report to Parliament in the manner he chooses, and is not prepared to trust him to do that with integrity and independence. I cannot imagine that the Coalition would ever agree to material being inserted into the Auditor-General's report in this fashion.

The Coalition would not have constructed the legislation in this way. In fact, when the Public Finance and Audit Act was finally presented to Parliament, after the report by the general purpose standing committee chaired by Reverend the Hon. Fred Nile, this provision was not included in the legislation. One imagines that at that time the Government was convinced that it was not necessary. Why has it re-emerged? It has re-emerged because the Treasurer is frightened, even with the limited level of expansion of the Auditor-General's powers that allow him to comment on wastage of public resources and any lack of probity or financial prudence in the management of public resources. In respect of statutory reports presented to Parliament—we are not talking about the efficiency reports; I accept that they require some level of correspondence beforehand—it appears to me that the Government believes that any member of the Executive Government should have the right to include material in that report.

Those people can go to the press, but the Auditor-General has pointed out that he does not conduct press conferences. In other words, the media is left to either read the report or rely on the Minister's comments. I know which would be easier and quicker! The press will rely on the comments of the Minister, because the Auditor-General is not going to publicise or push the material. To some extent the Minister is selling short the Auditor-General's integrity by introducing this sort of material. I do not think there has been a report produced by the Auditor-General to date, certainly not the current report, that has in any way compromised what we would normally expect of the Auditor-General. He has been an absolute straight shooter and, as I have been able to judge, he has reported to Parliament with complete integrity.

I cannot understand why we are considering this compromise. The Coalition believes that the position we took earlier was a perfectly adequate response to the bill. But a gun has been placed to the head of the Auditor-General; indeed, a gun is being held to the head of Parliament. We are in a position where we are going to have to accept this proposal as presented or the Government will walk away and attempt to blame the Coalition for frustrating the process of expanding the powers of the Auditor-General. The Opposition is not going to fall for that trick. We have made our position clear. If the Treasurer wishes to adopt this disgraceful compromise as his standard for public accountability, fair enough.

The Treasurer can grin all he likes about that but I look forward to the opportunity of debating him here, there and everywhere as to whether we have an Auditor-General who is able to hold any government department or any Minister accountable as opposed to the muzzled version that the Treasurer proposes whereby we simply cannot trust the statutory office of the Auditor-General to carry out its functions. We look forward to listening to the views of the crossbench members. They are likely to be as impressed as we are with this compromise that has been concocted and thrown before the Chamber.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.50 p.m.]: This is a disgrace, some sort of bad joke. New South Wales is a laughing-stock for people who are interested in open government. If it is true that the amendments have been agreed to by the Auditor-General, then, as the Hon. John Ryan has said, they were absolutely forced on him because he had no option. I believe he totally opposes this move by the Government, and so should everybody else. The Treasurer complained about the costs of answering questions here and providing information. He did not mention the cost in *Egan v Willis* or *Egan v Chadwick*, which set benchmarks for the amount it costs to keep things secret. He did not mention the fact—perhaps he does not know or does not want to know—that the budget committees in this place are not nearly as effective as those in Canberra. They actually get to the bottom of things and are not time-limited, whereas here budget committees are crammed into a very small time. Ministers appear for only a couple of hours. They are so frightfully busy, they cannot answer. There is obstruction. They talk their time away. There is an inability to answer questions by a certain time. All these basic impediments are put there by the Government against parliamentary democracy and open government. It is actually the money of taxpayers that the Government is supposedly looking after.

I was a member of the Standing Committee on Social Issues that looked at the reason for tendering out group homes. After a great deal of delving and diving by that committee it was revealed there was a memo from the Treasurer stating that privatised disabled accommodation would provide a cheaper option. The committee spent ages and ages taking submissions basically because the system was not open. Again, the tendering for disabled services was subject to a freedom of information [FOI] request and the whole issue is now before the Independent Commission Against Corruption [ICAC]. Huge amounts of time and energy are being spent trying to get information that in the United States would almost certainly be totally available, and it would be unnecessary to go to these lengths to get it.

Question time involves yet another attempt to prise open the process of closed government in New South Wales. There are contracts for many big public works that we do not know anything about—Sydney Harbour Tunnel, the M2 motorway, Walsh Bay to name a few. So we do not know whether we are getting value for taxpayers' money or whether we are getting ripped off. We do not know what sort of mates' deals were done. There is a culture of secrecy in New South Wales that this Government seems absolutely determined to perpetuate. In years gone by the Public Service conducted its affairs in a certain way—and it may not have done it very well—and it was somewhat closed in itself. Now we have commercial in-confidence arrangements whereby there are guaranteed secret contracts. As the Government does fewer things and contracts out projects supposedly to save money we do not know whether money is being saved or whether the Government is being robbed blind. We do not know about collusive tendering. How can we judge, because we are not given information?

The Auditor-General commented that the Port Macquarie hospital was paid for twice and given away once. When the Auditor-General looks at contracts that is as close as we get to what is actually going on. Even as we speak a committee is looking at what is happening with service delivery because as yet it does not have access to the contract. The Auditor-General last night on the *7.30 Report* commented that the most significant thing about his report is what was not in the report. So he obviously feels totally constrained. He feels that the opinion of the Solicitor General, which seems to have shown that what he was doing was not allowed under his Act, was requested by the Treasurer, who we must suspect wanted the Auditor-General's powers more tightly defined so that he would not have to come up with this sort of information. When he had the opportunity to correct the situation he did not do so.

It seems that the reference to the Solicitor General and the non-improvement of the Act are deliberate attempts by the Treasurer to obfuscate open government in New South Wales. In the second reading debate I referred to the work we have tried to do with whistleblowers, people whose lives in general are destroyed by their attempt to do what they consider is honest within elements of the Public Service. Bob Taylor was drummed out of WorkCover for showing how poorly it was managing its responsibilities. Now horrendous legislation has been introduced to take away workers rights, all because of the same problem—poor management by WorkCover. Bob Taylor, who has been drummed out without superannuation, drew attention to this matter years ago.

There has been an inquiry into what happened to Tim Priest and about the police culture. We have seen how difficult it has been to get corruption out of the police force. When we have a culture of secrecy and non-openness at the government level we waste endless resources through the committee system trying to find out things that we should not have too find out; they should be simply provided. That sets the tone for the State. The people who try to speak up have their lives ruined. The Treasurer's first amendment limits what the Auditor-General can report. He is allowed to look at the procedural efficiency but he is not allowed to take a big-picture view and look at allocative efficiency. It is not enough to see how efficiently we produce widgets; the question is whether we should be producing widgets at all. It is not much good just looking at the very narrow numbers and the very narrow functions. We have to look at it in a total context.

The Treasurer seems terrified to have public discussion of policy from someone who has an inside knowledge and knows where the dollars go. The last thing he wants is someone to comment on that. God forbid that someone with knowledge should actually comment on government policies! If he claims to be concerned about the taxpayers' dollars, one would think that he would welcome these sorts of intelligent inside comments. If the comments were way off beam, they would obviously be dismissed as foolish. He would have no trouble answering them. But if they were real and good comments, he might be terrified—and it seems that he is.

The Hon. Michael Egan: It is not the Auditor-General's role to comment on policy.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It is not in your Government, that is for sure. The Treasurer is scared of comment from those who know. He tries to stop everyone knowing. There is nepotism in the public service, there is obstruction to the Parliament and now there is constriction of the Auditor-General, thanks to the Treasurer's efforts through the Solicitor General and his cowardice in not bringing forward amendments that would be routine, and indeed tradition, in most American jurisdictions. The pièce de résistance, the farce of them all, is the Treasurer's second amendment. How to shut up a whistleblower in one easy lesson. It states:

> The Auditor-General must not make a report under this section unless, at least 7 days before making the report, the Auditor-General has given a summary of the proposed report (or of the relevant part) to the Head of each authority to which it relates or which, in the opinion of the Auditor-General, has a special interest in it.

In other words, give the spin doctors a week to get organised. It is a bit of a worry if we have an open opinion and everyone gets it at the same time! If that were not enough, the amendment goes on:

> The Auditor-General is to include in the report any submissions or comments made by the Head of an authority or a summary, in an agreed form, of any such admissions or comments.

The Government is saying, "If anyone has leaked any facts to the Auditor-General, if anyone has given him any insights that might be a bit dangerous, we will find out who he is. You have to say exactly who he is and what he said. That will be the end of his career all right, yes sirree. That's the end of him. He has upset the Government. He has given some facts to the taxpayer. He has gone to that terrible person, the Auditor-General, who might come up with some facts. That does not happen in New South Wales. It's the Rum Corps over here, mate." I will email these amendments to my friends in America and give them a good chuckle at our expense. They will say, "Those hayseeds down there. The good old Treasurer! Are you back there, mate? Jeez, we have not been there since the Pilgrim Fathers. We have not heard anything like this for years." The Treasurer can be sure that we will oppose this and divide on it. I do not care if this legislation goes down. I am quite cavalier about it. It will save me years of work.

I do not want to agree to farcical legislation and then have to sit on committees to obtain information from public servants who are scared to come out with the facts. It can be seen on their faces that they tread a delicate line in trying to do their civil duty. They answer questions asked by the committee knowing that their careers will sink like that of Tim Priest's if they open their mouths. Members spend years in committees trying to find out things that should be made public. I am not going to waste years of my life because of the Government's lack of courage or lack of commitment to openness.

I will oppose this legislation now. I will make it look a complete farce. I will show the Government for what it is. This is bad legislation and I will oppose it. I will find other honourable members to join me in dividing on this bill. I expect the Opposition also to vote against the bill. That is what should be done, what will be done, and I will take it from there. This bill is a disgrace, and the Treasurer really has to do a lot better.

Reverend the Hon. FRED NILE [9.01 p.m.]: The Hon. John Ryan quoted from the report of General Purpose Standing Committee No. 1 that made crystal clear the views of the Auditor-General about proposed amendment No. 2. Although the Auditor-General is apparently accepting this amendment in return for the Government accepting amendment No. 1—which itself was substituted for the original amendment No. 1, which I believe was the better amendment but was rejected by the other place—I am disappointed. I understood that the Government had agreed to amendment No. 2, which allowed the House to refer matters to the Auditor-General. During debate on that amendment I moved further amendments to delete any reference to giving power to any committee of this House to refer matters to the Auditor-General.

After some debate we came up with abbreviated wording, simply stating "either House". I assumed that the other place would have accepted that amendment. I am disappointed that it was rejected and that the other place has taken a harder line than the Minister took during debate in this Chamber. Amendment No. 2 applies standover tactics to the Auditor-General; it holds a gun to his head; it takes away a degree of independence of the Auditor-General in compiling his reports. For instance, if this amendment were adopted, the Auditor-General, instead of being frank and factual in helping Parliament understand a problem about an authority he has audited, would be aware that the authority and the Minister would read the report and, therefore, may tone down the report to get it through.

The Auditor-General may not want confrontation with the Minister or the head of an authority. In some ways the amendment undermines the genuine independence of the Auditor-General to simply write his report as he sees fit, not for any benefit to himself or to seek publicity. The Auditor-General writes reports in an endeavour to help this House. I have been seeking a way to give the Government what it wants in principle while allowing the Auditor-General some flexibility. Amendment No. 2 as proposed by the Government is very authoritarian. Most Government bills use the word "may", but I was surprised to read that this amendment contains the word "must". I move:

> That the question be amended by omitting proposed section 52 (4) in amendment No. 2 and inserting instead:
>
> (4) The Auditor-General may give a summary of the proposed report (or of the relevant part) to the Head of each authority to which it relates or which, in the opinion of the Auditor-General, has a special interest in it. The Auditor-General may include in the report any submissions or comments made by the Head of an authority or a summary, in an agreed form, of any such submissions or comments.

Auditors-General are decent and responsible people. If, in conducting their audit they felt that in the interests of fairness and natural justice they should provide a copy of their report, they would do so. However, there may be

cases in which there is no real need to do that, so it does not have to happen. Consequently, the word "must" should not apply. I ask the Committee to agree to this amendment, because it will protect the independence of the Auditor-General, which the amendment as proposed will undermine.

The Hon. RICHARD JONES [9.06 p.m.]: I support the amendment to amend proposed amendment No. 2. I had the same feeling as that expressed by Reverend the Hon. Fred Nile, the Hon. Dr Arthur Chesterfield-Evans and the Hon. John Ryan: that it sought to shackle the Auditor-General and that such a provision would contaminate future reports of the Auditor-General. The amendment as proposed by the Government would have contaminated any report. As Reverend the Hon. Fred Nile and other honourable members said, the Auditor-General may well water down a report in the knowledge that it will go to the head of an authority.

The issue of a time limit is another problem. As the Hon. John Ryan said, there is a problem about it being in an agreed form. What if there is no agreement? If the amendment moved by Reverend the Hon. Fred Nile is agreed to, there will be no such problem. If there were no agreement, the Auditor-General would leave out his summary or his submission. We have been told that the Auditor-General accepts the first amendment—but that acceptance was probably gained by a gun being put to his head, as has been suggested. I am sure that he would have wanted much clearer powers than the watered down version contained in the first amendment. Any waste of public resources or lack of probity or financial prudence in management or application of public resources gives the Auditor-General fairly wide powers. Apparently we are going to increase the capacity for either House to request the Auditor-General to hold an inquiry.

The Hon. John Jobling: That is sad.

The Hon. RICHARD JONES: It is a pity. Nevertheless, through the amendment of Reverend the Hon. Fred Nile, the Auditor-General will have such power. No doubt, from time to time the Auditor-General will be asked by either House to hold inquiries into certain matters. Given the power provided in the first amendment I believe that he will be able to accede to such requests.

The Hon. Michael Egan: That is right.

The Hon. RICHARD JONES: But he will not be obliged to conduct such inquiries. In a sense the amendment covers what we were trying to achieve with having either House request the Auditor-General to hold an inquiry. I understand that we can do that.

The Hon. Michael Egan: There is no change. The House has always been able to make such a request.

The Hon. RICHARD JONES: That is right, it has done so from time to time. But the Auditor-General was not sure of his powers, even when the House requested him to do such things. But this amendment will clarify his powers and ensure he has the power to do what we request him to do. The Treasurer should accept the amendment moved by Reverend the Hon. Fred Nile; it is a sensible compromise. If that were the case, I would not vote against the amended amendment No. 2. I believe that the Opposition too would then be inclined to support the amended amendments. They might satisfy us all.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.09 p.m.]: I find the comments of both Reverend the Hon. Fred Nile and the Hon. Richard Jones somewhat strange. I refer them to section 38C of the Public Finance and Audit Act, which relates to special audits. The section provides:

> (1) The Auditor-General is to report to the Head of the authority, the responsible Minister and Treasurer as to the result of any special audit and as to such other matters as in the judgment of the Auditor-General call for special notice.
>
> (2) The Auditor-General must not make a report of a special audit under this section unless, at least 28 days before making the report, the Auditor-General has given the Head of the authority and the responsible Minister a summary of findings and proposed recommendations in relation to the audit.

The Hon. John Ryan: It is a different audit.

The Hon. MICHAEL EGAN: Yes, it is a special audit. Section 38C provides further:

> (3) The Auditor-General is to include in the report of a special audit under this section any submissions or comments made by the Head of the authority or a summary, in an agreed form, of any such submissions or comments.

The Hon. John Ryan says they are different audits and that is true. One is a special audit and the other is a statutory audit. Nevertheless, a statutory audit report can contain all sorts of comments and observations of the Auditor-General, which may or may not be accurate. Indeed, there are many occasions when there are disputes between an Auditor-General and the head of an agency or a Minister, as can be seen in special audit reports tabled in Parliament. The report then has wide circulation to all sorts of groups and individuals within the community such as libraries and universities. Forever and a day the report contains the Auditor-General's opinion and a response, if needs be, from the authority. That simply means there is an opportunity for an authority to put its point of view. These are audit opinions, but they are not necessarily facts. They are subjective views of an authoritative office holder, admittedly, but they are still opinions.

The Hon. Dr Arthur Chesterfield-Evans: Are you frightened of opinions?

The Hon. MICHAEL EGAN: No, but why is the honourable member frightened of opinions? Why does he not want the response of an authority to be included in the Auditor-General's report? The point I simply make is that Reverend the Hon. Fred Nile and the Hon. Richard Jones seem to think that somehow or other the inclusion of this provision, which gives seven days notice to an authority and the opportunity to have their response included in the report, undermines the independence of the Auditor-General. Is the independence of the Auditor-General undermined by that same provision in section 38C of the Public Finance and Audit Act in relation to special audits? Of course it is not.

The Hon. Dr Arthur Chesterfield-Evans: You are letting the spin doctors have a go forever.

The Hon. MICHAEL EGAN: To summarise it, the view of the honourable member is to virtually let 100 flowers bloom. Why is he afraid of having a response to the Auditor-General's comments included in the report? What is wrong with that? Is he frightened of free speech?

The Hon. Dr Arthur Chesterfield-Evans: It is like the budget lockups. You always want a start.

The Hon. MICHAEL EGAN: There were some criticisms of budget lockups. The journalists who criticised lockups were the people for whom lockups were instituted in the first place: they wanted to get the budget papers and be ready to report on them so that one of their colleagues did not happen to get the jump on the other. I am not going to cop the criticism that there is something wrong with budget lockups. Budget lockups have been held in Canberra and this State by governments of both persuasions for a very long time. That is a silly argument. At least Reverend the Hon. Fred Nile and the Hon. Richard Jones were genuine in their comments. I cannot say the same for the Hon. Dr Arthur Chesterfield-Evans, whose mouth motors on without any connection to anything else. It must have been an embarrassment to an intelligent man like the Hon. John Ryan that the Hon. Dr Arthur Chesterfield-Evans supported his arguments. The honourable member says some of the most stupid things.

I should also point out that I have spoken to the Auditor-General about this proposed amendment, although only very briefly. I understand my officers also have spoken with him. It is not my impression that the Auditor-General had any aversion, or indeed any objection for that matter, to it. I understand there were some practical problems but I think they have been overcome by some of the wording of the legislation and also the commitments I have given to him. I commend the Government's amendment to the Committee.

[*Consideration interrupted.*]

DISTINGUISHED VISITORS

The CHAIRMAN: I acknowledge the presence in the President's gallery of two representatives of the Consulate-General of the People's Republic of China, the Consul (Economic and Commercial), Zhang Peng, and the Consul (counsellor), Zhou Xiaoming.

PUBLIC FINANCE AND AUDIT AMENDMENT (AUDITOR-GENERAL) BILL

In Committee

[*Consideration resumed.*]

The Hon. JOHN RYAN [9.15 p.m.]: It would appear that the Government is not prepared to support the amendment moved by Reverend the Hon. Fred Nile, which is an eminently sensible compromise to a

difficult situation. I will respond in each part to the objections of the Treasurer so that everything is clear. First, he said that he has had the opportunity to speak to the Auditor-General. I noticed yesterday that the Auditor-General when he published his report said, "The Treasurer indicated that the Government will seek discussions with the Opposition and the crossbenchers to resolve the problem quickly." I must be missing something. The discussion must be the debate in Parliament. I do not recall any opportunity afforded to the Opposition to discuss this. The first I saw of this amendment was a couple of hours ago just before dinner. It was not discussed. It was dropped on us.

A reasonable understanding of what the Auditor-General meant by "discuss" would be some sort of informal discussion in which the Treasurer briefed the Opposition on the Government's intentions and provided an opportunity for Opposition members to speak to the Auditor-General. By the time we had the opportunity to speak to the Auditor-General it was well after business hours and we were unable to find him to obtain any comment from him. All we have is the Treasurer's view of what the Auditor-General says is acceptable. I would hardly call that a discussion with the Opposition and the crossbench. If this did not occur with the crossbenchers, that is a different matter, but that is how the Opposition had the matter discussed. It was shown to us in Parliament on a take-it or leave-it basis.

Second, the Treasurer referred to sections of the Public Finance and Audit Act that relate to special audits and tried to indicate their similarity to the requirements for statutory audits. The Auditor-General in his evidence to General Purpose Standing Committee No. 1 distinguished between the two. He was aware there was a difference—and there are significant differences between a special audit and a statutory audit. When the Auditor-General conducts a statutory audit he audits every single government agency and reports on them almost all at once.

The Hon. Michael Egan: No, he does not.

The Hon. JOHN RYAN: He certainly reports on multiple agencies at once, as is always the case. In many instances there are time limits. With a special audit one agency is involved. It is a long-term process and does not happen just once a year, but from time to time. Everyone is aware of the audit from the beginning and every aspect is a collaborative effort. There is almost no need to tell the agency what will be in the report because it becomes fairly apparent from the collaborative work. A statutory audit is a point at which the Auditor-General is required to put pen to paper at the end of the year or a period and report at once. The Auditor-General says that the proposal the Treasurer is suggesting for statutory audits is impractical because so many agencies are involved and his independence is compromised. The Treasurer does not agree with that. I defy the Treasurer to inform the Committee why the Auditor-General apparently has expressed one view to him and another to this place when he is given the opportunity to give evidence freely to us. He made it absolutely clear when he said:

> I think there could be the opportunity for that compromise—

in referring to his own integrity. He was then asked whether he was in favour of this proposal being limited to a statutory audit. Reverend the Hon. Fred Nile asked:

> In principle, would you be in favour of this exposure process? It seems that Treasury is leaning in that direction, and legislation is being drafted, although we have not got a copy of it at this stage. We may be able to influence the outcome of that legislation.

Mr Sendt replied:

> I certainly would not be in favour of that, Mr Chair. I think it would compromise the independence of the Audit Office. Our client is very much seen to be Parliament, and our reports are directed to Parliament and not to government. As I said, the government is always aware of what is coming because we do not come up with these issues out of the air; we come up with these issues as a result of being out there working in agencies and finding out what is going on. So agencies certainly are aware of the issues.

The Treasurer said that the Auditor-General's report is filed in various libraries and government agencies do not have that same opportunity. That is nonsense. Ministers may make responses in Parliament and their comments are recorded in *Hansard,* copies of which are filed in exactly the same places and made available.

The Hon. Michael Egan: In separate documents.

The Hon. JOHN RYAN: So what? The police commissioner's response to every single Ombudsman's report is in a separate document. Reports on the Police Service do not include the comments of the Commissioner of Police. The police royal commission did not include in its published report the comments of

the Police Service. They are found in separate documents—as they should be. The Auditor-General is an independent statutory officer, who is not meant to be influenced. As he pointed out, he is concerned that the language of Ministers does not have to be as accurate or as tempered as his own. He is not able to engage in the sort of fiery debate that might occur in this place; his comments must be tempered by fact, but those of Ministers do not. Ministers may respond to questions in any way they see fit—which is what they do in this place—and one imagines that they will have the opportunity to do precisely that in responding to the Auditor-General's reports.

However, those who read their responses may not be able to make that judgment. It must be absolutely clear that a Minister's comments reflect only his or her views; there must be no possibility of their being seen as having received the Auditor-General's endorsement through inclusion in his report. Such inclusions would make the Auditor-General unique among our watchdogs. For example, we do not ask the New South Wales Child Death Review Team to obtain comments from the Department of Community Services [DOCS] before it publishes its report. It is perfectly obvious that DOCS will frequently have a completely different view from that of the Child Death Review Team, but the department's comments do not appear in the same report. People will have to search for the department's response, but it will not be hard to find. Its comments will probably be published in the *Sydney Morning Herald* the day after the report is published, and most libraries have copies of local newspapers. In fact, agencies usually do not comment the same day that Auditor-General's reports are published.

The Auditor-General referred to the furore that greeted his report on the General Government Debt Elimination Act when the Treasurer's response was reported almost three weeks later in the *Australian Financial Review*. The Opposition does not accept the Government's argument that somehow or other the Auditor-General now has a different view. The Auditor-General made his view crystal clear. The Treasurer is trying to lock up this debate by denying us the opportunity of consulting the Auditor-General. He revealed this information after office hours and is driving this debate without giving the Auditor-General any chance to correct, amend or modify the remarks made under oath to this place. I assume that the Treasurer does not agree with this reasonable amendment. He has not mentioned it—which makes his dissent from it all the more remarkable—and I urge him to do so.

I ask the Treasurer: How will this process work? What will happen when, according to his amendments, the material must be given to various government agencies beforehand? Will the Auditor-General be able to publish his reports if an agency's comments are not forthcoming? What does the Treasury expect will happen if the Auditor-General and the agency do not agree? Without this sort of information how on earth can the Committee vote sensibly on the Government's amendments? Unlike the 28-day lead time in the collaborative process, there will be only seven days in which to produce this material. I asked the Treasurer earlier what procedure would be followed if the Auditor-General commented again about the General Government Debt Elimination Act. Will the Treasurer expect to add his two bob's worth? Will he be able to delay the report for seven days?

I believe that there is adequate opportunity for comment by any government agency that wishes to do so. The Police Service usually produces a bound volume in response, which it publishes simultaneously with the Auditor-General's report. I am sure that government agencies have endless capacity to print and publish their detailed responses should they wish to do so. They do not need to comment in the pages of the Auditor-General's report. The Auditor-General made it clear when he had the opportunity to speak to this Chamber through a committee that the proposal before us would compromise his independence. It was not an ambiguous statement; the Auditor-General made his views on that proposal crystal clear. I dare Treasury to explain to the Committee how the Auditor-General's opinion can be different from what he has told this place. I point out that the Auditor-General distinguished between a special audit and a statutory audit. He was quite relaxed about the idea of a 28-day delay in reporting in the case of a special audit, but he was not relaxed about or agreeable to the Treasurer's proposal to the Committee regarding statutory audits.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.25 p.m.]: The Hon. John Ryan asked me how I would respond if the Auditor-General reported again on compliance with the General Government Debt Elimination Act. My response would depend on the comments of the Auditor-General. If I felt that they were wrong, I would, under the terms of the amendment that I have put to the Committee, respond in writing and I would include that response in the Auditor-General's report. There has been some debate between the Hon. John Ryan and me about the Auditor-General's views 18 months ago and his views today. I do not speak for the Auditor-General; I simply indicate that in my dealings with him he has raised no objection in principle to the inclusion of the second amendment.

I do not want the argument between the Hon. John Ryan, other honourable members and me to be construed as a concession on the part of the Government that it can introduce legislation concerning the Auditor-General only with the concurrence and approval of the Auditor-General. That is not the way things work in a democracy. Office holders do not write their own legislation. For example, the Chief Justice does not write his legislation, the Ombudsman does not write his legislation and the Police Integrity Commission does not write its legislation.

The Hon. Richard Jones: The police commissioner does.

The Hon. MICHAEL EGAN: I am not sure whether the police commissioner is in that position either. The Hon. Richard Jones might like to think the police commissioner writes his legislation, but I assure him that, from my experience, no office holders in this State write their own legislation. That is how it should be. It is absolute nonsense for any honourable member to suggest, as the Hon. John Ryan apparently has, that we should approve only that legislation that has the imprimatur of the office holder whom it concerns.

Reverend the Hon. FRED NILE [9.28 p.m.]: I agree with the Hon. John Ryan that there are two special cases: 28 days with special audits and seven days in this case. That is a major difference. We are not talking about comments made 18 months ago. Crossbench members met the Auditor-General this morning and he expressed his reservations about amendment No. 2. The Treasurer asked why the Auditor-General would be worried. The Auditor-General pointed out this morning that he writes reports that are not passionate or emotive but analytical.

The Hon. John Jobling: They should be factual.

Reverend the Hon. FRED NILE: Indeed. A Minister or head of department can write a passionate response in defence of their agency that overwhelms the valuable material that is almost buried in the pages of the Auditor-General's report. The report covers many pages and contains this strong, emotional and passionate statement. That was the way he explained it this morning and that was his reservation. That may not happen with the Ministers and heads of departments. The Treasurer may think he was unnecessarily concerned, but I believe he is justified in his concern.

The Hon. Michael Egan: Let me assure you that if there is anything I disagree with I will respond to it as passionately as I want to.

Reverend the Hon. FRED NILE: I used you as the example. You are the most clear example of this issue. He writes a 300-page report and in one page you damn him and his statements.

The Hon. Michael Egan: Whether I am effective will depend on the strength of my argument.

Reverend the Hon. FRED NILE: The Treasurer also said that heads of departments never draft legislation.

The Hon. Michael Egan: I said office holders.

Reverend the Hon. FRED NILE: The Treasurer may acknowledge that, because he sought that legal opinion, he forced the Auditor-General to write legislation.

The Hon. Michael Egan: No, I didn't.

Reverend the Hon. FRED NILE: His report contained draft legislation, which I quoted in the earlier debate on this matter. He felt that he had no option but to try to help us see his dilemma. He was virtually neutered as an Auditor-General. He tried to help us in performing his duties. The Treasurer seems to be unaware of that, but it was in the Auditor-General's report.

The Hon. Michael Egan: He is able to make a proposal or suggestion.

Reverend the Hon. FRED NILE: Yes, but he was forced to by the circumstances.

The Hon. Michael Egan: The underlying argument of the Hon. John Ryan is that somehow or other this Chamber passes legislation to deal with the functions of the Auditor-General only if the Auditor-General approves or agrees with it. That is absolute nonsense!

Reverend the Hon. FRED NILE: Because of the delicate matter we are discussing we need the assistance of the Auditor-General to get the words right—that is all. He is not trying to direct us.

The Hon. Michael Egan: I didn't say he was. I wasn't making any criticism of him. I was criticising the Hon. John Ryan.

Reverend the Hon. FRED NILE: So that we can assist him to carry out his duties. I have moved my amendment. If the Government maintains its confidence in the Auditor-General—the Treasurer has praised him in this Chamber as being one of his best officers—

The Hon. Michael Egan: I nominated him; he is my appointee.

Reverend the Hon. FRED NILE: —why would it not trust him? Why would it let him have the "mays" and not the "musts"?

The Hon. Michael Egan: Because I believe in the rule of law, not the rule of men. There is a fundamental difference.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.32 p.m.]: The crossbench members met with Mr Sendt late this morning. I asked him the last question in his presentation: If this legislation were passed, would the report he had given or said he had not been able to give in yesterday's *7.30 Report* be any different? He said, "Not substantially." In other words, he is saying, "All the stuff I couldn't put in I still can't put in." It is as clear as a bell that that is what he meant. At lunchtime the crossbench met with the Treasurer to see whether he would discuss the matter, as raised by the Hon. John Ryan. Although we had a nice cup of coffee, nothing like this was discussed.

The last point the Treasurer made was that we only have legislation the Auditor-General approves of. Of course, that is a nonsense. The Parliament thinks the Auditor-General is a trustworthy and sensible man and, naturally, would take his advice as a person who knows the subject and who has a good reputation of looking at government policies in an honest, open and incisive way. Naturally, we would take his advice in this case. The idea that we would pass legislation only if he wrote it or approved it is a nonsense. However, if the Auditor-General is competent and obviously knows more about that office than anybody else it comes down to a question of trust. In this case, I believe the Opposition and the crossbench trust him and take his advice. That does not mean that in all cases all office bearers should write their own legislation or that we believe that they should. The Treasurer is trying to introduce this red herring because he is not willing to support open government in New South Wales.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.34 p.m.]: I do not want to unnecessarily extend the debate, but if anyone is verballing anyone, the Hon. Dr Arthur Chesterfield-Evans is verballing the Auditor-General. At a meeting today the Hon. Dr Arthur Chesterfield-Evans tried to attribute certain remarks to the Auditor-General. I refer honourable members to the Auditor-General's written statement of yesterday, the last paragraph of which states:

> If my powers are amended along these lines, future Reports to Parliament will again include comments on accountability issues such as probity, wastage, and financial management. I would also reissue Volume Five of my Report—

that is, the report he issued on Monday—

> reinstating the material that has been excluded.

Full stop. Game, set and match.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 24

Mr Breen	Mr Harwin	Mr Ryan
Dr Chesterfield-Evans	Mr M. I. Jones	Mr Samios
Mr Cohen	Mr R. S. L. Jones	Mr Tingle
Mr Colless	Mrs Nile	Dr Wong
Mr Corbett	Reverend Nile	
Mrs Forsythe	Mr Oldfield	
Mr Gallacher	Mr Pearce	*Tellers,*
Miss Gardiner	Dr Pezzutti	Mr Jobling
Mr Gay	Ms Rhiannon	Mr Moppett

Noes, 14

Dr Burgmann	Mr Egan	Mr Tsang
Ms Burnswoods	Mr Hatzistergos	Mr West
Mr Costa	Mr Obeid	*Tellers,*
Mr Della Bosca	Ms Saffin	Ms Fazio
Mr Dyer	Ms Tebbutt	Mr Primrose

Pair

Mr Lynn Mr Macdonald

Question resolved in the affirmative.

Amendment agreed to.

Motion as amended agreed to.

Resolution reported from Committee and report adopted.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.45 p.m.]: I move:

That a message be forwarded to the Legislative Assembly conveying the terms of the resolution that the Legislative Council does not insist on its amendments Nos 1, 2 and 4, but proposes further amendments to the bill.

The Hon. JOHN RYAN [9.45 p.m.]: When these amendments are considered by the Legislative Assembly I hope the Government will have the good sense to accept them. They are perfectly reasonable and allow the Government all it needs. There is no good reason why the Government should not accept these amendments in another place. I commend them to the other place.

Motion agreed to.

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

LOCAL GOVERNMENT AND ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (TRANSFER OF FUNCTIONS) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.46 p.m.]: I have asked a number of agencies about this bill, and they seem happy with it. Therefore, the Australian Democrats are happy to support it. However, it seems that wood heaters have been transferred away from one function, but have not been received in another. They have been lost in the transfer of functions in the approval process. I foreshadow that I will move amendments during the Committee stage in regard to the approval process and the pollution emitted by solid wood heaters.

The Hon. IAN COHEN [9.47 p.m.]: With some reservations, the Greens support the bill. The Government claims that this is minor legislation that ties up the provisions in the Local Government Act that are a relic of the time prior to 1998 when building approvals were dealt with under that Act. The Greens believe that this is an oversimplification. The bill is likely to produce some significant changes in the process for consideration of important development applications. The bill will change the development approval process in places of public entertainment. These developments may have a significant impact on local communities. They include pubs, clubs, nightclubs and cinemas. Presently, it is necessary to obtain approval under the Local Government Act for the use of a building or temporary structure for these purposes.

In future, councils will be required to deal with these developments under the Environmental Planning and Assessment Act. However, the problem is that local government consent will no longer be innately necessary. Councils will need to address this issue in the local environmental plan. If councils do not change

their plans to include a requirement for these developments no approval will be required. This means that places of public entertainment could be built without adequate controls on their allocation and their impact on local communities. The Government, in a briefing note circulated in relation to this bill, states that it will be followed by a State environmental planning policy or policies.

A State environmental planning policy or policies would ensure that such places have development consent. They would also deal with matters that councils need to consider when deciding whether to give consent. The problem is that nothing in the bill commits the Government to making such a policy. Like so many of this Government's planning and environmental laws, the bill is just a hollow shell accompanied by vague promises, the details of which will be fleshed out later. The Greens agree with simplification of the planning system. It seems sensible that all development approvals are considered under one Act. However, the Government's purpose in bringing forward bills that consolidate and simplify the planning system is seldom to achieve better regulatory outcomes in the public interest; rather, the Government has created a planning system to fast track the path of development for the benefit of developers.

I would like to remind members that the legislation that passed through this House in 1995 under the then Minister for Planning, the Hon. Craig Knowles, dealt with the integrated development assessments that were debated in this House on the last day of the parliamentary sitting for that year. That was an issue that the Greens and the Hon. Richard Jones vehemently opposed at the time. I believe we have been proved correct in hindsight. It has created numerous problems for local councils and has taken away the proper process of development assessment. That has been thrown into the hands of private certifiers and created a situation, certainly in my home town, where developers are able to shop around and find someone who will put the development through. Mr Knowles' bill has resulted in a lot of fast tracking and very poor development processes.

The Greens do not oppose the present bill. We recognise that real public benefits can result from an integrated planning system. However, such an exercise needs to be approached with great caution to ensure that opportunity for public participation is not lost in the new process that results from the integrated system. The Government must ensure that local councils are aware of these changes and that they move quickly to amend their local plans to ensure that there is scope for public exhibition and consultation in relation to these developments. It is unsatisfactory that important details are to be contained within a State environmental planning policy [SEPP] that can be made totally at the discretion of the Minister without any public input.

The bill also removes controls on the installation of domestic oil and solid fuel heaters. The Government believes that the installation of these heaters is already covered under the Environmental Planning and Assessment Act. It argues that the purpose of the bill is to remove this unnecessary duplication. However, it is not clear that approval is required for these heaters. Approval is required for "building work" and the Government relies on an interpretation that "heater installation" falls within the definition of "building work". The Greens are concerned that a regulation that directly requires approval for these heaters is being removed without any obvious replacement. These heaters are a source of significant pollution that has been shown to be a health risk in urban areas.

The Government claims it would use the planning system to encourage the installation of heaters that meet pollution standards, with installation being classified as "exempt development" provided it reached a standard. Once again this House has been presented with important legislative change that lacks essential detail, accompanied by unconvincing promises that the details are to be contained in future policies. The Greens want a definite provision in the bill that converts the Government's vague promises into a binding requirement. The Greens are proposing an amendment that will limit the commencement of the new process. Under the amendment the existing process will continue to operate until the new policies are in place. I hope that the Government will see its way clear to support the amendment. With that reservation, the Greens support this bill.

Reverend the Hon. FRED NILE [9.53 p.m.]: The Christian Democratic Party supports the Local Government and Environmental Planning and Assessment Amendment (Transfer of Functions) Bill as it will simplify matters relating to building controls and building regulation. It follows a decision in 1999 to combine in one Act all the building regulations and controls, and to transfer the building regulation expertise and functions from the Department of Local Government to the Department of Urban Affairs and Planning.

The regulatory functions relate to approvals governing places of public entertainment and Crown places of public entertainment, and the installation of temporary structures and solid fuel heaters. For that reason the Christian Democratic Party supports the bill. It would appear that some of the amendments that have been

proposed are an attempt to replace all the development approvals that the bill seeks to streamline, and therefore we have reservations about them. I believe that the bill should be passed in its current form and then we will be a position to see whether there are any problems in the operation of the legislation.

The Hon. RICHARD JONES [9.54 p.m.]: I share the concerns expressed by the Hon. Ian Cohen, particularly relating to solid fuel heaters. The issue of particulate matter from solid fuel heaters arose during an inquiry into the M5 East ventilation stack and the pollution from that stack—which is still unfiltered. At certain times of the year, 50 per cent of particulate matter air pollution is caused by wood-burning heaters. On an overall annual average, about 25 per cent of all pollution in that particular air shed is caused by solid fuel heaters. I presume that it is the same across Sydney. I believe that there should be a determined effort to face up to the problem of solid fuel heaters, particularly in urban areas. Anyone who lives next to a house that has a solid fuel wood heater would be aware that its smoke can contaminate the entire neighbourhood. I have experienced that myself.

I was one of the fortunate people who survived the great smog of 1952 in London, in which many thousands of people died. You could not see more than about half a metre in front of your face. That smog, of course, was caused by burning coal, but wood heaters create a mini version of that every winter in Sydney, and that pollution causes a significant number of deaths. A large number of people die every year from particulate matter inhalation in Sydney. The Department of Health has estimated that several hundred people die every year from the effects of pollution, and approximately one-quarter of those deaths would be caused by wood heaters. We should do our very best to ensure that solid fuel heaters are phased out in Sydney in particular, and in other country towns where pollution is a significant problem. Therefore I will support the amendments proposed by the Greens.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [9.56 p.m.]: This bill provides for a simple transfer of approvals from the Local Government Act to the Environmental Planning and Assessment Act [EPACT]. It does not create new requirements or remove existing requirements. Before the amendments to the Environmental Planning and Assessment Act are introduced, a State environmental planning policy will need to be prepared. I can give the commitment that any State policy prepared to implement these changes will be prepared and finalised before the amendments commence. The State policies will be exhibited for at least 28 days so that the community and local councils can be involved in the finalisation of the provisions.

The Government is also committed to doing further work by way of providing councils with guidelines on the new provisions for the installation and operation of solid fuel heaters. The Department of Urban Affairs and Planning and the Environment Protection Authority will jointly prepare guidelines that will allow councils to use the planning and pollution control systems to better manage wood smoke issues. The Director-General of the Department of Urban Affairs and Planning will write to all councils in the State to advise them of the changes that will result from this bill, and of their opportunity to control the permissibility of solid fuel heaters through the planning process.

A continuation of the approvals identified in the bill is vital to the safety of members of the community when they go to see a play or a movie, or enjoy a party in a marquee. However, the new system of approvals created by the bill takes advantage of the fact that building and development approvals will be all under the one Act and handled by a single approval. There are also advantages in having these approvals in the EPACT, as the simple routine proposals can be made "exempt development", which does not need an approval, or can be "complying development", which has a fast, simple approval process. The changes recognise that the expertise for building control now lies with the Department of Urban Affairs and Planning, which represents the New South Wales and Australian building codes boards and contributes directly to the management of building standards at the national level. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clause 1 agreed to.

Clause 2

The Hon. IAN COHEN [10.00 p.m.], by leave: I move Greens amendments Nos 1 and 2 in globo:

No. 1 Page 2, clause 2, line 7. Omit "subsection (2)". Insert instead "this section".

No. 2 Page 2, clause 2. Insert after line 7:

(2) A day cannot be appointed by proclamation to commence a provision of this Act unless the Minister certifies to the Governor that:

(a) a State Environmental Planning Policy relating to places of public entertainment and temporary structures is or will be in force on and from that day, and

(b) such a State Environmental Planning Policy was, before being made, placed on public exhibition for a period of at least 28 days.

The Minister said in his second reading speech:

> Before the changes start operation a number of State environmental planning policies [SEPPs] will be made to deal with the standards and other regulatory processes involved in the transferred functions.

The Minister also promised that he would ensure there is sufficient time for councils to understand and prepare for the new processes before they start. These amendments are intended to translate the assurances provided by the Minister into a legally binding requirement. That means that the new processes will not commence until the SEPPs are made. Government planning policy is based on the need to provide certainty in the planning system. If these amendments are included in the bill, the community and developers will have greater certainty about the content of the law.

The Greens are opposed to planning legislation being used as a hollow shell, with the details being fleshed out in SEPPs. There is no requirement for public participation in the making of SEPPs. It is no coincidence that SEPPs have become the Government's preferred method of making major planning changes. They are a convenient way for the Government to make planning policy by ministerial edict rather than through open and participatory processes. I commend Greens amendments Nos 1 and 2 to the Committee.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.02 p.m.]: The Australian Democrats support the Greens amendments.

The Hon. DON HARWIN [10.02 p.m.]: As the Hon. Ian Cohen said in moving the amendments, the Minister clearly said in his second reading speech that before the changes begin operation a number of State environmental planning policies will be made to deal with the standards and other regulatory processes involved in these transferred functions. As a result of the assurance that has been given in this Chamber—and conveyed to the honourable member for Pittwater, who has carriage of planning matters for the Opposition—the Opposition will support the Government's position, which I understand is to oppose both amendments.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [10.03 p.m.]: The Government does not support Greens amendments Nos 1 and 2. Their effect would be to prevent the commencement of the bill until a State environmental planning policy had been prepared and exhibited, and to ensure that any SEPP prepared to implement the bill had been advertised for at least 28 days. The Government does not support the Greens amendments but gives a commitment that the Government's amendments will not be commenced, as I said in reply to the second reading debate, until a State environmental planning policy is prepared and publicly exhibited for at least 28 days.

Amendments negatived.

Clause 2 agreed to.

Clauses 3 to 5 agreed to.

Schedule 1 agreed to.

Schedule 2

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.04 p.m.], by leave: I move Australian Democrats amendments Nos 1 and 2 in globo:

No. 1 Page 7, schedule 2. Insert after line 3:

[1] Section 4 Definitions
Insert at the end of the definition of advertised development:

Advertised development also includes any development involving the installation of a solid fuel heating appliance in a building, manufactured home, moveable dwelling, associated structure or temporary structure.

No 2 Page 8, schedule 2. Insert after line 21:

[5] Section 81 Post-determination notification
Insert after section 81 (3):

(4) In the case of a development application to carry out development involving the installation of a solid fuel heating appliance in a building, manufactured home, moveable dwelling, associated structure or temporary structure, the notice given by the consent authority under this section must include such information as the Environment Protection Authority considers appropriate in relation to the proper use of such appliances.

[6] Section 85A Process for obtaining complying development certificates
Insert after section 85A (11):

(11A) In the case of an application to carry out development involving the installation of a solid fuel heating appliance in a building, manufactured home, moveable dwelling, associated structure or temporary structure, the notice given by the consent authority under subsection (11) (a) must include such information as the Environment Protection Authority considers appropriate in relation to the proper use of such appliances.

The amendments bring solid fuel heaters within the requirements relating to advertised developments. Solid fuel heaters have quite an effect on the air in the region of the heater. Within an urban area or in a valley, a heater will add considerably to particulate pollution, with adverse health effects. Solid fuel heaters should not fall through the cracks between the Environmental Protection Authority [EPA] responsibilities and local council functions. Its effects in the local area should be taken into account. Heaters are turned down overnight—this applies particularly to wood heaters but also to coal heaters—so that the level of oxygen is lessened. The combustion is less effective and slower. This means that the level of smoke pollution from the imperfectly burned carbon source is worse, both in quantity and in its effect on health.

Thus the number of wood heaters particularly, and coal heaters to a lesser extent, needs to be controlled. The way to do that is to make them subject to an approval process. Neighbours also should be made aware of the proposed installation, because they are intimately affected, and the installation should come under the control of the approving authority. The neighbours, being affected, should have the right to comment.

A group that has done some research on this matter is the Armidale Air Quality Group, which looked at a study carried out by the University of New England's Department of Health Studies. It found that visits to general practitioners in Armidale for respiratory illness increased significantly after a woodsmoke build-up in the valley. Research in America shows that fine particle pollution such as wood smoke increases the risk of heart attacks. The risk of heart attack increased by 69 per cent when the daily average of PM 2.5 micron—I am not sure of the units—rose to a concentration of 20 micrograms per cubic metre. Often in parts of Armidale the measurement of PM 2.5 micron exceeds 100 micrograms per cubic metre because of wood smoke. Obviously, if 20 micrograms per cubic metre increases the risk by 69 per cent, up to 100 micrograms per cubic metre would increase the risk significantly and have serious health consequences.

The Hon. Rick Colless: If it is minus seven degrees outside, how else do you keep warm?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You can have heating without creating a lot of smoke. There are other ways of heating. I will probably have to explain this very carefully.

The Hon. Rick Colless: I use a wood heater every night in wintertime, Arthur.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You can have heaters other than wood heaters.

The Hon. Rick Colless: They do not keep you as warm as wood heaters.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Some other heaters are even more efficient than wood heaters. The problem is that even the newest ones are quite polluting relative to other sources of heat. In

Christchurch, New Zealand, the standard for wood heaters was set at 1.5 grams of particulate per kilogram of wood, which is a much stricter standard than the Australian standard of four grams per kilogram, which was revised downwards from 5.5 grams per kilogram on 1 July 2001. However, Christchurch found that even with its tighter standards of emissions, air quality standards could not be met, and wood heaters are being phased out in Christchurch for that reason. The Australian Democrats believe that there should be a necessity for an application, as enacted by the amendments that I have proposed. I ask that the amendments be accepted in the interests of health and so that approval for new polluting heaters is regulated and does not fall through the cracks as the transfer of functions is made.

The Hon. IAN COHEN [10.10 p.m.]: On behalf of the Greens I support the amendments moved by the Hon. Dr Arthur Chesterfield-Evans. I note that comfort is drawn from the traditional use of wood heaters, but they cause a serious problem in certain areas. Because of its geography, Armidale is cold, and the massive use of wood heaters there presents significant air pollution problems. In the outer western suburbs of Sydney the massive use of wood heaters in winter causes air pollution. Government and health authorities have recognised that that problem needs to be attended to. Other forms of heating are available, including traditional oil and solid fuel, and the design of buildings can contribute to far greater heating efficiency.

They are the sorts of alternatives we need to look at rather than allow wood heaters to take over. They also cause significant respiratory problems, especially among children in the western suburbs. To digress, some house designs include a black plastic water membrane to hold water, and when the roof is wound back during the day the water is heated. That system is used in Australia but it is also used in California and in many other advanced areas. I am trying to give an example of an alternative system of heating. As I say, when the roof is closed, the heat is conducted into the house. That is a significant improvement in passive heating design. Many alternative systems can be instituted, and I suggest that the Government look at other options beyond solar hot water systems.

The Hon. Greg Pearce: But they freeze.

The Hon. IAN COHEN: Yes, I appreciate that they can. Nevertheless, they are a significant step forward in energy-saving devices. When augmented with electricity or gas heating, they might not freeze. They still do a good job in the day time.

Amendments negatived.

The Hon. IAN COHEN [10.12 p.m.]: I move Greens amendment No. 3.

No. 3 Page 8, schedule 2. Insert after line 9:

[2] **Section 4 (2) (b) (v)**
Omit "and". Insert instead "or".

[3] **Section 4 (2) (b) (vi)**
Insert after section 4 (2) (b) (v):

(vi) the installation of a domestic oil or solid fuel heating appliance (other than a portable appliance), and

This amendment is intended to ensure that building approval is required for the installation of domestic oil and solid fuel heaters. The Government claims that approval is necessary under the Environmental Planning and Assessment Act, but that Act does not specifically include the installation of heaters in the definition of "building work". Section 4 states that "building work" means any physical activity involved in the erection of a building. A list of examples is provided, but the installation of heaters is not included. The words in the amendment mirror the words removed from the Local Government Act. The amendment will ensure that there is no doubt that the Parliament intended that building approval be required for those heaters. I commend amendment No. 3 to the Committee.

Amendment agreed to.

Schedule 2 as amended agreed to.

Schedule 3 agreed to.

Title agreed to.

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

LIQUOR AND REGISTERED CLUBS LEGISLATION FURTHER AMENDMENT BILL

Bill received and read a first time.

Motion by the Hon. John Della Bosca agreed to:

That, pursuant to contingent notice, standing orders be suspended to allow the passage of the bill through all its stages during the present or any one sitting of the House.

ADJOURNMENT

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [10.19 p.m.]: I move:

That this House do now adjourn.

POULTRY INDUSTRY DEREGULATION

The Hon. TONY KELLY [10.19 p.m.]: I commend the State Government's decision announced today not to deregulate the New South Wales poultry meat industry. That is a great win for country New South Wales; it will help guarantee the livelihood of the 320 poultry producers across the State.

The Hon. Patricia Forsythe: How many poultry producers are there in the seat of Tamworth?

The Hon. TONY KELLY: There are 13. The decision is yet another example of a Labor Government standing up for producers, their families and their employees. It shows that the Labor Government is willing to take the fight to the Federal Government and its obsession with National Competition Policy at any cost. The decision not to deregulate demonstrates the Government's ongoing support for rural and regional primary producers. It means that the industry, which employs almost 3,000 on-farm workers and 8,700 workers industry-wide, will continue to play a vital role in the health of rural and regional New South Wales.

Poultry producers contribute $51 million to the regional economy and underpin a $1.35 billion retail sales market in Australia and overseas. All of that has been placed under a cloud by the Federal Government's National Competition Policy. If Howard and Costello had their way, 20 per cent of New South Wales chicken farmers would go to the wall. Labor would never stand for that. Country Labor has been behind the poultry farmers ever since the Howard Government sought to push through the deregulation of the industry. Meetings with key industry stakeholders and strong representations to the Minister for Agriculture and the Premier left no doubt about the position of Country Labor. We started our representations in 1998.

The Hon. Rick Colless: You went down 13 per cent in New England.

The Hon. TONY KELLY: You lost your seat. Country Labor spoke out against the deregulation, which would benefit only the major processors. Currently, farmers receive only about 52¢ a bird, which translates roughly to about 6 per cent of the retail price. I would not grow a pumpkin for 52¢, let alone a chicken. Yet if Howard and Costello have their way, these slender margins will be further slashed to help bolster the bottom lines of the powerful processors to the detriment of the ongoing viability of our farmers and with no net benefit to the consumer.

Quite simply, deregulation failed the public interest test and Labor dismissed it accordingly. Today's announcement once again reflects a Carr Labor Government that is looking after the long-term interests of our country communities. Unlike the Liberal and National parties, Labor will always pursue policies that serve the greater public interest. Today's message of reassurance and hope strongly contrasts an Opposition that refuses to stand up to their Federal counterparts in the interests of the State's farmers. In fact, the only statement issued by the State Opposition has been to call upon the Federal Government to speed up the process of national competition and deregulation, just as in deregulation of the dairy industry we had the Liberal Party and National Party siding with the powerful processors to the detriment of producers and consumers.

Yet there is one hurdle left to ensure the future of our New South Wales poultry farmers, and that obstacle is the Federal Government, which shows no signs of moderating its strong stance in favour of National Competition Policy at any cost. I call upon the Federal Government to ensure that the National Competition

Council does not reject the Carr Government's decision to protect the poultry industry. At the same time I call upon their State counterparts to speak out against their Federal colleagues and to try to talk some sense into them. My fear is that Howard and Costello, now even less concerned with the views of the shrinking Federal National Party, will continue to pursue their dry economic policies to the detriment of country producers, their families and their communities.

BISHOP JOHN STEVEN SATTERTHWAITE RETIREMENT

The Hon. Dr BRIAN PEZZUTTI [10.23 p.m.]: On the eve of the retirement from active duty of Bishop John Satterthwaite in Lismore I bring to the attention of the House his service. Bishop John Steven Satterthwaite was born in Randwick on 11 August 1928 when his parents were moving from the Murray River district to Ashford near Inverell in northern New South Wales, where his father had been appointed shire engineer. His mother remained in Sydney to deliver John and joined the family later. His father worked as a civil engineer in the shire of Inverell. His father was called Charlie, but as Gough Whitlam pointed out to the bishop on a visit, the family name of Satterthwaite derives from "satter" meaning sheep and "thwaite" being a place where sheep graze. It was one of the bishop's great claims to fame that he was a shepherd on the North Coast without any sheep.

His primary education was at Ashford State School, and in 1941, at the age of 13, he was sent to St Joseph's College, Hunters Hill, as a boarder to complete his secondary schooling. Having gained entrance to university he enrolled in the faculty of engineering. He took up residence at St John's College in 1946. His participation in the life of the college, particularly in debating and rugby—he was also a member of Joey's first eight rowing team—did not interfere with his studies. Academically brilliant he graduated in 1949 with a degree in Bachelor of Engineering. He took up work as a junior engineer with Australian Iron and Steel at Port Kembla.

However, 1951 brought a change of direction in the life of John Steven Satterthwaite. He decided to study for the priesthood. Having been accepted by Bishop Edward Doody for the diocese of Armidale he proceeded to St Columbia's College, Springwood. From there he went to St Patrick's College, Manly. He left for Rome in 1953 to study at the Irish College and at the Lateran University. He was ordained a priest in Rome on 16 March 1957 by Archbishop Luigi Traglia, and obtained his Doctor of Divinity degree after a further 12 months. On his return to the diocese of Armidale Dr Satterthwaite was appointed assistant priest in the parish of Glen Innes, where he served for a period of time, and then three years later Bishop Doody brought him to the cathedral city to be his secretary and chancellor of the archdiocese.

In March 1969 John Steven Satterthwaite was elected the Titular Bishop of Tignica and Coadjutor Bishop of Lismore. Tignica is taken from an area in Tunisia in the vicinity of Carthage. Sixteen members of the Australian hierarchy were among the congregation of some 1,300 who witnessed the episcopal ordination in St Carthage's Cathedral in Lismore in 1969. Two years later he became bishop on the retirement of Bishop Farrelly. He was ordained as bishop by Cardinal Gilroy, and I remember the great celebrations in Lismore at that time. For 26 years he gave all his time to the diocese. He co-ordinated and implemented many outcomes of the Vatican Council and established a Diocesan Pastoral Council and a Council of Priests. He afforded maximum support for education in the diocese through building schools and did something quite extraordinary: he set up the Catholic Education Office in Lismore. One notable appointment has been the appointment of an episcopal vicar for education and a lay director of the Catholic Education Office.

Bishop Satterthwaite had an ongoing commitment to supporting charitable works, which is a diocesan policy. He arranged for the diocese to be responsible for the conducting of St Vincent's Hospital, Lismore, the St Joseph's Cowper Children's Home and two homes for the aged. He encouraged parishes to provide care for the aged and he supported the Sisters of Mercy, the Society of St Vincent de Paul and similar projects. Bishop Satterthwaite is well known for his work in building up the dioceses but, more important, for his long walks around Lismore at night and driving his little old car over large distances. He will be sadly missed. He is a man who has certainly served his flock and looked after the people on the North Coast. I wish him well in his retirement. [*Time expired*.]

Ms LAURA LEONOFF MEDICAL TREATMENT

The Hon. ALAN CORBETT [10.28 p.m.]: I wish to briefly relate the story of a woman who received a life-saving operation some 10 years ago but who has since suffered, and still today suffers enormously, from unintended consequences after follow-up surgery. In June 1991 Laura Leonoff collapsed with a blinding headache. Westmead Hospital diagnosed a subarachnoid haemorrhage. Emergency surgery was performed the

next morning. A large bone flap from the right temple was removed for surgical access to Laura's brain. The bone was placed into cold storage for replacement at a later date, to allow surgical swelling time to go down—a fairly standard procedure.

The surgery went well: Laura's life was saved. The neurological signs rapidly returned to normal, although she had blindness in one eye plus neck and shoulder pain. When discharged Laura was told she must return in a few weeks for the follow-up bone flap replacement. It was another five weeks before Laura was readmitted as a public patient for the operation. The neurosurgeon who had performed the initial surgery in charge of the case was not recorded as being in the operating room, only registrars. Shortly after discharge Laura became anxious. The operative swelling had reduced and then a marked dent appeared on her skull, just as there had been before the bone replacement.

During the months of recovery Laura's jaw started to ache. She began chiropractic treatment for the neck and shoulder pain but was unable to continue due to the cost. There was no follow-up appointment with Laura's original surgeon after her first discharge. She had to wait a year to see a neurologist at Westmead who noted the obvious depression on the right temple and suggested that bone infusion would improve with time. No improvement appeared in the look of her skull as time past. Laura suffered from severe neck, shoulder and jaw pain. The local dentist found that the jaw was no longer well aligned and she had developed temporo-mandibular joint dysfunction on the right side. She was losing weight and having trouble sleeping.

Three years after the original surgery Laura saw a second neurologist, who noted a bony depression in her skull and told her it could be corrected surgically. He did not say what caused the depression. She was not inclined to have further surgery—it had been an unpleasant experience and she had been given no real reason to believe it was needed. Over the next three years a range of neurologists told Laura that her large facial defect was merely cosmetic and that the painful symptoms arising since her surgery were hysterical in origin and unrelated to the surgery. She was told repeatedly that she was neurologically normal and that she had normal reflexes.

Laura became very depressed and frustrated. After six years a Sydney-based United States-trained neurosurgeon told Laura that there was no bone over the surgery site despite the surgery having apparently replaced it. Meanwhile, Laura's original neurosurgeon reported to her general practitioner that she was not likely to need further surgical treatment and that she had no permanent impairment and should be capable of returning to work. This doctor admitted that he had not seen her since her first surgery in 1991. Yet Laura was still unable to work.

Members of the dental profession were confident that Laura's facial pain was related to the lack of bone for jaw muscle attachment, which caused her unstable jaw alignment, and that her neck pain was the result of head positioning during surgery. In early 1998 a discharging sore, which failed to heal, developed over the skull defect. Laura was referred to yet another neurosurgeon, who wanted to open the site, remove any dead tissue, treat her with antibiotics and later plate the defect. Laura refused surgery: she had become fearful of surgical outcomes in Australia because of a lack of information over so many years. Laura still has a weeping wound, despite long-term treatment with antibiotics.

Since 1999 Laura has contacted State and Federal politicians about her plight. The New South Wales Minister for Health referred Laura to the Health Care Complaints Commission, which organised a meeting between Laura and Western Sydney Area Health Service representatives—two neurosurgeons and an administrative officer—in August 1999. The meeting was not a success for Laura, although the doctors seemed satisfied: they dismissed her health problems as being unrelated to the surgery. The Health Care Complaints Commission decided that the case did not warrant further investigation. Laura approached the Independent Commission Against Corruption and the Ombudsman, who stated that it was not in their field. After 10 years, Laura has no avenues left to explore, which is why I have placed her story on the record. I ask the Minister for Health to re-examine this case urgently and compassionately, with a view to helping Laura Leonoff obtain treatment for her ongoing painful condition and assisting her in any other way possible.

POLITICAL COMMENTARY

The Hon. AMANDA FAZIO [10.33 p.m.]: Tonight I shall talk about the lacklustre quality of some of the political commentary that the people of New South Wales have had to suffer both during the Federal election campaign and this week. In particular, I draw honourable members' attention to the phenomenon of failed political operatives who reinvent themselves as political columnists. I recognise that the need to have a

string of commentators forces some media outlets to resort to employing people who have either failed in the political process or who are well past their use-by date. I comment specifically about the columns written by Remo Nogarotto, former State Director of the New South Wales Liberal Party, and Gary Punch, the former Federal member for Barton.

Those two people are close friends and were engaged to give different perspectives by the same newspaper during the Federal election campaign. It is interesting to examine the credentials of these two so-called expert commentators. When Remo Nogarotto left the Liberal Party his legacy was an organisation that needed major structural reform and Federal intervention in order to attempt to regain the confidence of the people of this State. Gary Punch is a former Young Labor activist who held the Federal seat of Barton until he resigned his candidature in the run-up to the 1996 Federal election when he thought that the party was facing defeat at the polls and his seat was likely to change hands. This is perhaps the greatest service that he has ever performed for the Australian Labor Party because he was replaced by Robert McClelland, a genuine Labor star as opposed to a spluttering catherine-wheel.

Who is this man who was tried to reinvent himself as a key political player and who now defines himself as a "former senior faction member"? Gary Punch was a junior Minister who coped with the pressures of the political process so well that he used to throw up before he faced Parliament at question time. He is a man who put himself forward as the "dream candidate" in the preselection process for the Auburn by-election. He thought he would have done well if someone had driven him from Oatley to Auburn in his Mercedes-Benz and shown him around the electorate. What a pity no-one else shared his dream. I am pleased that commonsense prevailed and Barbara Perry was preselected to stand for the seat. Barbara campaigned very well and has so far proved herself to be a very effective parliamentary performer who will represent the people of Auburn in an exemplary fashion.

Gary Punch thinks if he can manage to find a seat in State Parliament he can be a future Premier of New South Wales. Let us be realistic: Gary Punch does not have the commentator credentials of former senator and New South Wales General Secretary of the Labor Party, Stephen Loosley, who is well known for his in-depth knowledge of political processes in Australia, both State and Federal, and also overseas. He has a highly developed understanding of political history, and Gary Punch is a pale imitation in comparison.

Let us consider the career path of Gary Punch since he left Federal Parliament. He had a short period of employment in private enterprise and then worked as a lobbyist for the cotton industry, which is not one of the most environmentally friendly rural industries. Apart from being a *Daily Telegraph* columnist, he now wears two hats: he is an industrial relations partner at Phillips Fox and a cake shop proprietor in the southern suburbs. It is time that Gary Punch put his carpetbag in the boot of his Mercedes—perhaps it is too big to fit—and drove back to the southern suburbs where he belongs. He should stop hosting candidates' lunches as he is not in a position to bring any influence to bear with genuine decision makers in the New South Wales Labor Party. It is time he stopped masquerading as an informed political commentator, which he is not. The people of New South Wales deserve better commentaries on politics than those offered by these yesterday's men, and I hope that the major newspapers will be a little more selective when employing columnists in future.

PUBLIC LIABILITY INSURANCE

The Hon. MALCOLM JONES [10.37 p.m.]: Apart from their tragic effect on the families of those who died, the events of 11 September in New York will have long-lasting effects in many areas. The war on terrorism will add to the impact of the failure of HIH Insurance, the awards handed down by judges, not only in New South Wales but worldwide, and today's propensity to sue—litigation is the modern form of corporate warfare. In Victoria a case has been listed for three years. Imagine the costs and problems associated with a hearing lasting three years! This is a mixing pot for catastrophe as far as public liability insurance is concerned.

It is not that premiums will become more expensive but that the price of premiums will increase so much that many things that we take for granted, such as surf beach patrols, will be jeopardised. Our way of life, especially recreational pursuits, will be threatened. There will be risk wherever people congregate—at bus stations or sporting events, for example. The public have always been quick to criticise insurance and insurance companies. As for the criticism that emanates from a certain corner of this Chamber, we must put misinformed rhetoric to one side. More than 97 per cent of insurance claims are paid speedily and without incident. The public is perhaps about to experience what life will be like when events are not able to take place, or take place in such a restricted manner as to be changed and diluted beyond recognition.

Last year insurance liability premiums totalled $14 billion whereas claims amounted to $18 billion. The premiums were insufficient and the balance was paid from reserves and investment income. Shareholders will no longer allow claims to be paid from funds other than premium income so insurers are restricting liability risk. Returns from insurance companies in Australia totalled a mere 2.5 per cent last year compared with 14 per cent for banks. People in insurance broking circles have reported to me that entertainment liability accounts show that two-thirds of claims are spent on the cost and assessment of claims and not on benefits paid to the beneficiaries. Premiums for non-hazardous events such as festivals that cost about $700 in 2000 will cost in excess of $3,000 in 2001.

It is a different story when serious hazards are encountered. Theme parks will be affected and may no longer be able to function. For example, the Bridge-to-Bridge Ski Classic race is in doubt. Who will organise mountain bike competitions, whitewater canoe rafting or skydiving events without adequate liability insurance? Public liability insurance for stadiums will affect live attendance at sporting venues, if in fact sporting events can take place. The simplest solution to this problem, given the separation of powers between government, Parliament and the courts, is to restrict payouts and prescribe maximums not dissimilar to those in third party vehicle insurance and workers compensation legislation passed by this Parliament. Many reinsurance contracts will be renewed in December, and the crunch will either come then or be averted temporarily. If the insurance market continues to harden, as is occurring at present, we will be forced to countenance such issues. Please consider the points that I have raised to be an early warning. If and when life become seriously challenged by such issues, the solution is probably only in our hands.

NEO TOKYO ART EXHIBITION

The Hon. JAMES SAMIOS [10.41 p.m.]: I draw honourable members' attention to the opening of the Neo Tokyo Art Exhibition at the Museum of Contemporary Art [MCA] at Circular Quay. The artists involved in this presentation are Command N., Satoshi Hirose, Shiro Matsui, Masato Nakamura, Yoshitomo Nara, Myeong-eun Shin, Taro Shinoda, Shingo Suzuki, Momoyo Torimitsu, Miwa Yanagi and Kenji Yanoba. The occasion of the opening of the exhibition marked the celebration of the MCA's tenth birthday. No doubt honourable members are aware that the MCA was set up pursuant to the John Power bequest, which was administered by the University of Sydney and assisted by the State Government.

It is pleasing to note that despite some difficult periods the MCA received assistance recently from the State Government in the form of $3 million per year for the next five years. No doubt this assistance will be crucial for the future survival of the museum.. The Museum of Contemporary Art in its 10 years achieved much, and distinguished service was rendered to it by former chairmen, among them Mr Sinclair, Geoffrey Cousins and John Reid. The chairmanship is now with John Kaldor, who is making an important contribution to the museum's survival. The MCA has played an important role in providing Sydney with access to contemporary art, a tradition that I believe was established earlier by Leon Paroissien and Bernice Murphy, who were curators for many years.

The opening by Elizabeth Ann Macgregor and the Japanese artists was in the presence of hundreds of supporters of the MCA. I should like to provide a sample of the program that has been made available to honourable members. The December program in the summer season involves Japanese language tours on 2 December when the MCA guide Miho Kondo will lead a tour of the Neo Tokyo exhibition. Later on the same day the New South Wales Youth Arts and Skills Festival will be conducted. The festival is a statewide program promoting youth involvement in the community through the arts and cultural activities. Following the launch this festival will feature youth performances at the MCA and next door at First Fleet Park.

On 5 December museum director Elizabeth Ann Macgregor and artist Lyndal Jones, who represented Australia at the forty-ninth Venice Biennale, will host an insightful dialogue exploring Jones' most recent work, "Deep Water-Aqua Profunda". Elizabeth Macgregor will explore also the artist's interest in the relationship and tension between desire and ambivalence, external and internal worlds, and cultural and personal histories. Honourable members can be proud of the fact that the MCA continues to make an important contribution to the social and cultural development of our multicultural city. We can also be proud of its significant international impact. I believe the desire to reach out internationally to contemporary art is important for the success of Sydney's position and pivotal role in the art world. [*Time expired.*]

SUSSAN OUTWORKERS WAGES

Ms LEE RHIANNON [10.46 p.m.]: I remind honourable members of the need to be wary of companies that attempt to gain kudos by sponsoring what are generally seen as good causes. The action of the

retail outlet Sussan illustrates this problem. This company recently sponsored a fun run to raise dollars for the Royal Hospital for Women. While this action may be commendable, the Greens support the call of the Fair Wear organisation for Sussan to pay its workers proper wages. Outworkers sewing garments with Sussan and Suzanne Grae labels have told Fair Wear of rates of pay as low as $2 to $4 an hour. They have reported receiving as little as $2 for selling garments that retail for $50.

The Hon. Dr Brian Pezzutti: Speak to the Minister about it. He's always on about outworkers.

Ms LEE RHIANNON: I note the interjection of Dr Brian Pezzutti and say that I have spoken to the Minister on this matter. We actually come close to a popular front; we actually agree that Fair Wear does a good job. We actually assist Fair Wear in many ways to work with these companies to improve conditions. Sussan has previously made assertions in the media and in letters to Fair Wear supporters that their subcontractors are required to pay fair wages and provide fair conditions to workers producing their clothes. However, there is extensive evidence that this legal requirement is not being fulfilled. Sussan was named repeatedly by outworkers in the national outworkers phone-in conducted by the Homeworkers Code of Practice Committee in November 2000 as a label sewn for very low rates of pay. I understand a number of outworkers have spoken directly to Fair Wear about these low wages and poor work conditions.

Sussan could ensure the legal requirements of its contracts are fulfilled by taking part in the monitoring and labelling system under the Homeworkers Code of Practice. This company already is a signatory to the code. However, Sussan needs to actively participate in the monitoring and labelling system. Only then will Sussan clothes have the right to carry the No Sweat Shop label that would provide proof to consumers that its clothing is made without exploitation. The Greens support the Fair Wear call that Sussan write to all its suppliers asking them to become accredited under the Homeworkers Code of Practice and use the No Sweat Shop label, make public statements supporting the No Sweat Shop label, make it clear they want this label on their clothing, and inform the Homeworkers Code of Practice Committee and Fair Wear of their actions.

We understand that with the Fair Wear campaign once these steps are taken Sussan's efforts to end the exploitation of migrant outworkers in Australia would be widely publicised and consumers would be encouraged to shop at Sussan stores for the No Sweat Shop label. The Greens urge all honourable members to encourage their constituents this Christmas to buy only clothes with the No Sweat Shop label. It is an important contribution that we can make to improve the conditions and wages of many migrant women who suffer so much exploitation today.

Motion agreed to.

House adjourned at 10.49 p.m.