

## LEGISLATIVE ASSEMBLY

Wednesday, 16 November, 1988

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**Mr Speaker (The Hon. Kevin Richard Rozzoli)** took the chair at 2.15 p.m.

**Mr Speaker** offered the Prayer.

### DEPARTMENT OF CORRECTIVE SERVICES SECURITY

#### Ministerial Statement

**Mr YABSLEY:** I wish to make a ministerial statement. Yesterday I advised the House about a number of security breaches at premises of the Department of Corrective Services. Two male persons have been charged with a total of 15 charges relating to property of my department and police officers associated with my department. A substantial number of further charges of a similar nature are still under investigation, and inquiries are continuing into other related matters. The goods involved include electronic equipment, departmental files, handcuffs and shoulder holsters. All the stolen property has been recovered. Apparently all the offences were committed within the past 14 days. Already I have ordered an immediate and comprehensive review of security arrangements at all Sydney departmental premises. One of the offenders appeared in court today and was remanded without bail. The other offender will appear in court tomorrow. As further details become available I shall advise the House further.

### PETITIONS

The Clerk announced that the following petitions had been lodged for presentation.

#### Kiama Hospital Services

Petitions praying that the projected closure of the operating theatres at Kiama hospital should not proceed; that the surgeons, gynaecologists and obstetricians should be appointed, and that an inquiry should be held into the actions of the Illawarra area health service, received from **Mr Markham** and **Mr Rumble**.

#### Hotel Gaming

Petitions praying that because the Government plans to increase gaming privileges in hotels and the great bulk of revenue from this would pass to individual hoteliers, without providing increased public facilities such as are provided by clubs, the House would not support that increased gaming privilege, received from **Mr Beckroge**, **Mr Christie**, **Mr Davoren**, **Mr Price** and **Mr Rogan**.

**Berkeley Vale Industrial Estate**

Petition praying that the establishment of a chemical factory by Ashland Chemicals in the Berkeley Vale industrial estate should be prevented and the area rezoned environmentally sensitive, received from **Mr Graham**.

**East Hills Rail Service**

Petition praying that because of the withdrawal of the East Hills rail service stopping at Erskineville and St Peters stations from 11th September there is inconvenience to local residents, workers and hospital visitors, and that the House will institute the restoration of the service, received from **Ms Nori**.

**Abortion**

Petition praying that because the overwhelming majority of the population support the continued availability of abortion and do not want any return to backyard abortions the House should not support any restriction of existing abortion services, received from **Mr Smiles**.

**Food Irradiation**

Petition praying that because irradiation of food degrades its nutritional value and is potentially harmful the House will take steps to ensure the enforcement of regulations prohibiting such irradiation, received from **Mr Dowd**.

**Wyang Hospital**

Petition praying that because there is concern about the administration and future of Wyong hospital the Government will call for the immediate reopening of ward 2, that the Minister for Health should make a special fund allocation for that purpose, and that the hierarchy of the Central Coast area health service should show cause as to why they should not be dismissed, received from **Mr H. F. Moore**.

**QUESTIONS WITHOUT NOTICE**

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**COMMUNITY POLLING**

**Mr CARR:** My question without notice is directed to the Premier, Treasurer and Minister for Ethnic Affairs. What role has Mr John Stirton from the Premier's personal staff played in co-ordinating the Government's market research and opinion polls? Is Mr Stirton still playing an active role in the Liberal Party's private opinion polling? What assurances will the Premier provide that publicly funded market research is not being used for party political purposes?

**Mr GREINER:** Only the last part of that question deserves an answer, which is that the Leader of the Opposition really must be joking.

**CENTRAL RAILWAY DEVELOPMENT**

**Mr TURNER:** I ask the Deputy Premier, Minister for State Development and Minister for Public Works a question without notice. Will the Minister inform the House whether the Government's new guidelines for the disposal of strategic government assets includes the leasing and development rights on and above the property at Central railway? If so, what use is planned for that area?

**Mr W. T. J. MURRAY:** That question relates appropriately to the development of Sydney and the overall benefit to the people of New South Wales.

**Mr J. J. Aquilina:** That is of little interest to the electorate of Myall Lakes.

**Mr W. T. J. MURRAY:** It is interesting that the honourable member for Blacktown should make that comment, as the project will provide better access to Sydney for the people of Blacktown as well as the people of Broken Hill. It will enable people to travel to Sydney and, for example, join tour buses. The Government has decided to invite expressions of interest from the private sector for the leasing and development of the area at and above Central railway. That decision was taken in agreement between my Department of State Development and the Minister for Transport. It has been decided that the area should be developed for commercial, retail, tourist and residential purposes. The development will include the State's major long-distance coach terminal, for which 50 bays are envisaged. Also, it will include the terminal for the Very Fast Train, which will journey between Sydney and Melbourne in about three hours. Press statements inviting expressions of interest in the development will appear in Sydney newspapers tomorrow.

The registration of interest procedure is the first step in the process of developing the site. The process will follow the Government's guidelines for the disposal of strategic assets and is expected to generate essential revenue for the Government, while providing a most needed facility for the public. The site being offered for leasing and development rights is part of the area bounded by Eddy Avenue, Chalmers Street, Prince Alfred Park, Pitt Street, Lee Street, Regent Street and Cleveland Street. The overall area of the site is approximately 21.36 hectares, of which approximately 5 hectares is available for development. The Government regards development of this site as a vital step in the rejuvenation of this part of Sydney city.

**Mr Brereton:** This will go well in the bush.

**Mr W. T. J. MURRAY:** Central railway station is the focal point of the southern part of Sydney's central business district and the precinct surrounding the station is a major hub of public transport activity. For the benefit of the interjector who said that will sound good in the bush, may I suggest it will sound very good in the bush. It will sound very good in the bush because at last people in country areas will have a central point in Sydney to which their buses can come. The honourable member for Heffron, this failed Minister, did not even provide adequate bus bays at Darling Harbour. So good was his planning of Darling Harbour that people cannot get in and out of the place by bus.

[Interruption]

**Mr SPEAKER:** Order!

**Mr W. T. J. MURRAY:** In recent years Central railway has been restored and refurbished, public transport facilities have been greatly improved, and much redevelopment has occurred or is proposed for the Railway Square area. The site has the potential to be a landmark in the midst of this rapidly developing area. I believe the development of this site will act as a catalyst for the further development of the southern city area, resulting in vastly improved civic amenities, pedestrian facilities and public transport services. In making the site available for development the Government is committed to ensuring the highest standard of architecture and urban design which best takes advantage of the site, its heritage importance and its location. A number of buildings within the development area are heritage listed and will be preserved in any development. Height limits will be in accord with the city council's guidelines and will restrict any building to 14 storeys. Registration of interest will close at 10 a.m. on Friday, 20th January, 1989.

The development project will be co-ordinated by the Department of State Development, and a project team has been formed with representatives from the State Rail Authority, the Department of Planning and the Ministry of Transport, the Urban Transit Authority, the Tourism Commission, the Property Management Unit and the Sydney city council. The Government is pleased to make this site available for development and regards the project as one of the most important steps in the modernization and improvement of the southern city district.

#### GOVERNMENT MARKET RESEARCH AND OPINION POLLS

**Dr REFSHAUGE:** My question without notice is directed to the Premier, Treasurer and Minister for Ethnic Affairs. Did he, on 30th June, issue a memorandum to all Ministers appointing Mr John Stirton as responsible for co-ordinating all government market research and opinion polls? Did he inform his Ministers that "responses to one or two poll questions can be arranged with John Stirton on a weekly basis"? Has this polling been conducted by Bunori Pty Limited?

**Mr GREINER:** The answer to the first part of the question is yes, and to the second part of the question it is no.

#### AUSTRALIAN LABOR PARTY SOCIAL JUSTICE POLICY

**Mr ROBERTS:** My question without notice is directed to the Premier, Treasurer and Minister for Ethnic Affairs. Is he aware of statements made by the Leader of the Opposition that a social justice strategy prepared by the previous Government will provide the basis of a Labor Party social justice policy into the 1990s? If so, has the Treasury offered any advice on the cost of these proposals and their effect upon the State Budget?

**Mr GREINER:** I did notice in passing the Leader of the Opposition making some reference to his new social justice strategy, which was based on the social justice strategy of his colleague the honourable member for Rockdale. I thought it was a good idea to try to unearth exactly what was the basis for the Labor Party's social justice strategy for the 1990s. We did some research—

**Dr Refshauge:** And beyond.

**Mr GREINER:** And beyond, says the Deputy Leader of the Opposition. We have unearthed that in January 1988 the Premier's office—the office of the honourable member for Rockdale—instructed one Helen L'Orange, the former

head of the Women's Co-ordination Unit, to develop a social justice strategy for New South Wales—a perfectly reasonable thing to ask the lady to do. She had some help from such luminaries as Mr Sorby, Mr Freudenberg and Mr Easson. We welcome Mr Easson back to the staff of the Leader of the Opposition. He was the man who ran Wal Murray for Premier. It was going to be a National Party clean sweep. He only missed out by about 30, which was pretty close—

[Interruption]

**Mr SPEAKER:** Order!

**Mr GREINER:** With the help of these luminaries Ms L'Orange developed a strategy focusing on 10 priority areas. I remind the House that the Labor Party after 12 years in Government discovered social justice. It decided to fight poverty and even plan the State's future, which was, perhaps, not altogether a bad thing to do after 12 years. The Women's Co-ordination Unit dutifully prepared the strategy. It was not a totally unreasonable strategy. It contained costings of about \$50 million. This was the real strategy, a copy of which I have obtained. As late as mid-February this year—a month before the Labor Government was voted out of office—in the onset of the election campaign, negotiations were still taking place with Treasury officials to finalize details for the release of the so-called L'Orange strategy. The honourable member for Rockdale became desperate. Honourable members can understand his becoming desperate. On 9th March, 10 days before the election, the former Premier was totally desperate so he decided to fire his absolute last salvo.

[Interruption]

**Mr SPEAKER:** Order! I call the honourable member for Kogarah to order.

**Mr GREINER:** The honourable member for Rockdale was going to bring the Labor Party back from the brink of defeat.

[Interruption]

**Mr SPEAKER:** Order!

**Mr GREINER:** As the Deputy Leader of the Opposition has said, "Barrie's fair go package" was released. There is only one small difference between the L'Orange strategy and the one released by the former Premier. That difference amounted to a little more than \$200 million that had been discovered and unearthed as part of the strategy between the beginning of February and 9th March when it was released. The honourable member for Rockdale turned the fair go package into a type of liquorice all-sorts situation. Sweets were thrown at everyone in the hope that someone would suck them and see—

[Interruption]

**Mr SPEAKER:** Order! I call the honourable member for Waverley to order.

**Mr GREINER:** Some of the sweeteners that the honourable member for Rockdale added to the package included a 25 per cent cut in public transport fares, though the State rail system was then losing \$1,100 million a year; the abolition of stamp duty on all first homes costing \$105,000 or less; a 20 per cent reduction in motor vehicle registration; no fewer than 130 000 extra technical and further education positions; and the abolition of the tax on low alcohol beer. This was the new economically rational and responsible Labor

Party Government which the Leader of the Opposition likes to boast about. The total cost of the Unsworth bag of goodies, far from the original \$50 million, was estimated to be \$260 million. That was the social justice strategy. The former Premier told the people that this could be done without the State having to borrow or increase taxes and charges. There was an honest Minister in the previous Government. Unfortunately he is no longer with us. The former Treasurer was, as all honourable members would agree, a scrupulously honest person.

[Interruption]

**Mr SPEAKER:** Order! I call the Deputy Leader of the Opposition to order and I call the Leader of the Opposition to order.

**Mr GREINER:** In a letter from the former Treasurer—

[Interruption]

**Mr SPEAKER:** Order! I call the honourable member for Coogee to order.

**Mr GREINER:** In a letter from the former Treasurer to the previous Premier, the honourable member for Rockdale, on 12th February—one month before the election—concerning the added cost of a social justice strategy, the former Treasurer said:

I must draw to your notice that the latest advice I have received from Treasury indicates that any further large expenditure commitments affecting the 1987–88 Budget could result in a deficit situation.

That letter was addressed to the Premier who said, a week later, “This will be done without borrowing, without raising taxes and without raising charges”. The letter from the former Treasurer continued:

I suggest that any further underlying recurrent expenditure commitments be held to a maximum of \$25 million.

The Unsworth package amounted to more than \$200 million. The realities are that the former Government and the former Premier were willing to prostitute themselves and debase what was left of the State’s financial integrity—

[Interruption]

**Mr SPEAKER:** Order! I call the honourable member for Londonderry to order.

**Mr GREINER:** —in what they so falsely called a social justice strategy, which could have been paid for only by reducing spending on housing, health, education or some other worthwhile purpose.

[Interruption]

**Mr SPEAKER:** Order! I call the honourable member for Illawarra to order.

**Mr GREINER:** There was no other way that the so-called social justice strategy could have been funded. One would have thought that the former Government would have given that strategy away, but on 2nd October the Leader of the Opposition, speaking about the document we heard about from the former Treasurer, told the State conference of the Labor Party:

The details of this document now provide the basis of a social justice policy to the 1990s.

How could there be anything with less common sense and less compassion than a Labor Party that—

[Interruption]

**Mr SPEAKER:** Order! I call the honourable member for Bass Hill to order.

**Mr GREINER:**—left the State of New South Wales with the longest hospital waiting list for pensioners anywhere in Australia; the worst law and order record for personal safety of any State in Australia; and a Housing Commission waiting list of 85 000 families. The former Government did all of that while promising a so-called social justice strategy which was going to bankrupt the State if it was implemented. That little piece of political history is a useful guide to the House and to the people of New South Wales.

[Interruption]

**Mr SPEAKER:** Order!

**Mr GREINER:** Honourable members opposite do not like it but it is a useful piece—

[Interruption]

**Mr GREINER:** Obviously the honourable member wants me to resume my seat. It is a useful piece of political history as it shows how bankrupt the Australian Labor Party is of any ideas that truly improve the lot of the ordinary people of New South Wales. I hope the members of the Labor Party persist with their social justice strategy well into the 1990s and even well into the next century. One thing is sure; that type of social justice strategy will never be accepted by the people of New South Wales.

#### INTELLISEC AUSTRALIA PTY LIMITED

**Mr WHELAN:** I address my question without notice to the Minister for Corrective Services. Why did the Minister advise the House yesterday that he had had no dealings with Mr Stephen Benton or his firm, Intellisec Australia Pty Limited, when the Minister knew that Mr Benton and his company provided private investigation and security services to him directly? Will the Minister now give the House a full account of his personal relationship with Mr Benton and Intellisec Australia Pty Limited?

**Mr YABSLEY:** Clearly the honourable member for Ashfield has some extraordinary power as a clairvoyant, some extraordinary ability to perceive things that simply have not happened.

[Interruption]

**Mr SPEAKER:** Order! I call the honourable member for Ashfield to order.

**Mr YABSLEY:** Following the question that was asked yesterday by the honourable member for Kogarah, I searched the records of my department and my personal office to try to throw some light on what dealings may have taken place between either myself, my department or members of my personal staff and a firm called Intellisec Australia Pty Limited and its principal, Mr Stephen Benton. I advise the House that the check that was made reveals that there has been no contact either between myself, representatives of my department or my personal staff with that firm. If the honourable member for Ashfield cares to

throw more light on this subject I shall be happy to make further inquiries. Apart from that, I think the only point that comes out of it—

[*Interruption*]

**Mr SPEAKER:** Order! I call the honourable member for Fairfield to order.

**Mr YABSLEY:** —is that if the Opposition wants to take its tip-offs from crooks and thieves, it should be careful about what it does with the information it receives.

### DEPARTMENT OF MOTOR TRANSPORT RECORDS

**Mr GLACHAN:** I direct my question without notice to the Minister for Transport. What action does the Government propose as a response to criticisms by the Privacy Committee of the abuse of Department of Motor Transport records by private individuals?

**Mr BAIRD:** The honourable member for Albury takes an interest in the rights of privacy for individuals in this State, to make sure they are adequately safeguarded. We are not a Big Brother government—

[*Interruption*]

**Mr SPEAKER:** Order!

**Mr BAIRD:** The 1987 annual report of the Privacy Committee is a sad indictment of the previous Government's failure to give due importance to the rights of individuals to privacy. The committee was particularly concerned about the ease with which members of the public could obtain the names and addresses of owners of vehicles registered in New South Wales. The committee received a number of complaints as to how particular individuals were harassed and interfered with following the ascertaining of their identities through records of the Department of Motor Transport. At present, that department allows access to its records for certain purposes, such as locating a person after an accident or locating a debtor. Normally, a person whose file has been accessed is notified simultaneously of the identity of the person who requested the information and of the reasons stated for the request.

The Privacy Committee has found that several people have been given information about others while supplying false identities or addresses for themselves. Others have claimed that although they knew the person who searched their record, the reason stated on the application form was false. In the past the records of the Department of Motor Transport have been used by rejected lovers. In one case the rejected lover fire-bombed his girlfriend's car. The records have been used by various people to trace attractive women driving in the street. There have been reports of anti-abortionists who have tried to identify doctors and patients attending abortion clinics. However, it is not jilted boyfriends alone who abuse the system; members of the Labor Opposition have also got into the act. The honourable member for Ashfield, the Inspector Clouseau of the Opposition, has used the records of the Department of Motor Transport in quite dubious circumstances. I have viewed the application for search of the records for a vehicle owned by Mr Kenneth Francis Hooper—

**Mr Whelan:** Read it out.

**Mr SPEAKER:** Order! I call the honourable member for Ashfield to order for the second time.

**Mr BAIRD:** I am happy to read it out because, when we find the reason for that search, what does it say?

**Mr Whelan:** Court case proceedings.

**Mr BAIRD:** It states "Possible court case".

[*Interruption*]

**Mr SPEAKER:** Order! I call the honourable member for Ashfield to order for the third time. The Minister should be heard in silence.

**Mr BAIRD:** The Privacy Committee has long—

[*Interruption*]

**Mr SPEAKER:** Order! I call the honourable member for Smithfield to order.

**Mr BAIRD:** —been critical about applications from individuals who set out false reasons for information. False declarations can be prosecuted under section 527A of the Crimes (Amendment) Act. It would be particularly interesting—

**Mr Whelan:** On a point of order. The veiled threat of a prosecution is taken up. I challenge the Minister to prosecute.

**Mr SPEAKER:** Order! No point of order is involved.

**Mr BAIRD:** The reason—

[*Interruption*]

**Mr SPEAKER:** Order! The House will cease its cross interjections and will allow the Minister for Transport to answer the question in silence.

**Mr BAIRD:** The Privacy Committee has been particularly critical of those who set out false reasons for obtaining information from the Department of Motor Transport. The honourable member opposite has clearly put something that is false.

**Dr Refshauge:** On a point of order. It is definitely in order to make a passing attack on a member seated on the other side of the Chamber, but the Minister in answering this question is making a serious allegation against a member of this House. If he wishes to pursue that, he must do so by way of a substantive motion.

**Mr SPEAKER:** Order! The Minister for Transport, in referring to certain actions of the honourable member for Ashfield, attributed certain motives to him. Although there is nothing out of order in the points developed so far by the Minister for Transport, I suggest that he leave the imputation of motive at that point. If the Minister chooses to develop that line further and provide reasons for what might lie behind the member's actions, the situation will be different. I rule that the Minister for Transport is in order so far, but ask him to remain aware of what I have said.

**Mr BAIRD:** The Department of Motor Transport, in responding to the complaints made by the Privacy Committee, has been asked to tighten access to registration information. Obviously, there are valid commercial reasons for allowing some access to names and addresses, balancing commercial needs against the minority of individuals who misuse the system. The interests of drivers involved in accidents need to be protected, but there must be a way in

which individuals can trace the owners of vehicles when the drivers have failed to stop and identify themselves after an accident. Other ways must be found to tighten that information access. One way in which it has been suggested this can be done is by owners being given a 48-hour advance notice of the search before the information is provided to the applicant; the second way is to provide stricter requirements for identification so that additional proof of identity is needed; the third way is by reducing the category for which access is granted. It is intended to make sure that people are aware of the constraints upon them so that when they are granted their registration papers they will be advised also that possible access could be given to the records. These changes will be made in consultation with the Privacy Committee. We are happy to meet with them. We have had consultations with them over the photo licence. What we are about is making sure that the abuses that have occurred in the past under the previous Government shall not occur in the future.

### TRANSPORT INVESTIGATION BRANCH

**Mr BRERETON:** My question without notice is addressed to the Minister for Transport. Did the Minister mislead the public when he said—

[Interruption]

**Mr SPEAKER:** Order! The honourable member for Heffron has the call.

**Mr BRERETON:** Did the Minister mislead the public when he said that only seven officers had resigned from the railway police since the Government came to office? Will the Minister inform the House and the public of the true level of resignations and why all officers of the transport investigation branch have been forced to sign a letter saying that they will not talk to the media?

**Mr BAIRD:** The honourable member for Heffron simply cannot get it right. He has not yet worked out that the transport investigation branch reports to the Minister for Police and Emergency Services, not to the Minister for Transport. I suggest that he put the question on the notice paper and refer it to the Minister for Police and Emergency Services.

### HOLLYDELL FARM

**Mr HARTCHER:** My question without notice is directed to the Minister for Local Government and Minister for Planning. Has the Minister rezoned land known as Hollydell Farm at Forresters Beach, in contradiction of advice from the Minister for Environment, as was reported in the *Sydney Morning Herald* on Monday, 7th November?

**Mr HAY:** How nice it is to have a member representing that area who is interested in the protection of the environment and in responsible environmental planning. It is a fact that the area known as Hollydell Farm has been rezoned by me but not, as the newspaper suggested, in opposition of advice from the Minister for Environment. Far from it.

[Interruption]

**Mr SPEAKER:** Order! I call the honourable member for McKell to order.

**Mr HAY:** The effect of the new zonings will be that 60 per cent of Hollydell Farm, that is most of the naturally vegetated land, will be dedicated as open public space at no cost to the people of New South Wales. Hollydell

Farm is part of an area of 120 hectares proposed as a coastal reserve between Forresters Beach within the city of Gosford and Bateau Bay within the shire of Wyong. Most of the land in that area is already in public ownership, including land purchased by the Department of Planning through the coastal lands protection scheme. The most prominent portion of Hollydell Farm along the ocean front is zoned 7 (e), coastal lands acquisition, and has already been purchased by the department. The remainder of the property was previously zoned 7 (a), conservation, and 7 (b), coastal lands protection. The new zonings, which I have approved, more accurately reflect the visual and biological conservation attributes of the site, with the most significant areas now being zoned 7 (a), conservation, and the cleared, gently sloping and visually unobtrusive part now being made available for development under the 7 (c3), tourist accommodation, zone.

As I said earlier the acquisition of the area now zoned 7 (a), conservation, was acquired at no cost to the public of New South Wales. When my colleague the Minister for Environment and Assistant Minister for Transport wrote to me on 7th September about this matter he said he believed that of all possible alternatives this arrangement would produce the greater public benefit. I concur with that view. In summary, the objective of bringing important and sensitive lands into public ownership and public use has been achieved by my actions to rezone Hollydell Farm. The objective of creating an area as an adjunct to a significant coastal reserve has been achieved by the responsible rezoning of this area. Also, the objective of bringing this important area into public ownership at minimal public cost has been achieved by my action.

#### Mr PAUL GALEA

**Miss FRASER:** I address a question without notice to the Minister for Agriculture and Rural Affairs. Why was vandalism and destruction permitted to occur at the property of the rebel egg producer, Paul Galea? Why was Sally Wilson, a special constable authorized under the Prevention of Cruelty to Animals Act, hindered and prevented from entering Galea's farm? Who owns the hens in question at this moment, and when will the report and recommendations of the independent consultant be released?

**Mr ARMSTRONG:** The honourable member's question is timely. Through his own actions Mr Galea is in contempt of court. The court has appointed sequestrators, who have taken certain action in relation to Mr Galea's assets. Mr Galea, his hens, and his farm fall within the province of those sequestrators and the New South Wales courts. Clearly the matter lies with Mr Galea to make his own arrangements with the court for the future of his assets. I am informed that Mr Galea will appear before the courts once more this week, at which time no doubt he will inform the court of any arrangement he seeks. I have no knowledge of the allegations of vandalism and destruction. That matter should perhaps more appropriately be put to the sequestrators.

Soon after winning office the Government commissioned an independent report. I remind honourable members that for 12 years the Labor Party had been in government in New South Wales and had done nothing for the egg industry. It lacked the guts to address the problems. The Government, upon winning office, promptly set up an inquiry to investigate the egg industry and appropriate legislation. The principal legislation was supported by both sides of the House upon its introduction. I am able to quote from some interesting contributions from members of the Labor Party about how necessary the legislation was at the time of its introduction. No less a person than the Hon.

Don Day, a Labor Minister for Agriculture, made some glowing comments about the legislation.

The report to which I have referred is complete and has been placed before the Crown Solicitor. The report is at the moment going through the Cabinet process, and when Cabinet deems it appropriate, I shall release the report to the public. When it is released, I shall seek intelligent input from the community, as well as input from the Labor Party. If the Government believes that new legislation is required, I shall take the appropriate action. In recent weeks, a Mr Tebbutt has made a number of statements relevant to the Galea saga and has been a close companion of Mr Galea. The honourable member's question provides me with the opportunity to inform the House about Mr Tebbutt's position, which has been so widely reported in the media. I shall read to the House a letter addressed to Mr M. G. Tebbutt, dated 17th December, 1987. It states:

I have received your letter of 12 October 1987 requesting once again my intervention with Mr Kerin to have your hen levy debts to the Commonwealth waived.

The levy applied to all commercial producers of eggs in every State, irrespective of whether they chose the caging method of production or the open range method. I am told that of the many open range egg producers throughout Australia, none except yourself sought exemption.

Similarly, I am advised that no producer who chose to trade outside the State regulatory arrangements, and declined to pay the hen levy on those grounds, has been excused from payment of the levy. Legal proceedings are currently in progress against several such producers.

As Mr Kerin advised you in a telegram sent in October 1985, the Commonwealth Government is answerable to the Federal Parliament for the administration of legislation enacted by that Parliament. Where the legislation provides for the collection of compulsory charges such as the hen levy, there is an inescapable obligation to seek to recover unpaid levy. In your case, that was being done by the New South Wales Egg Corporation as a duly appointed agent of the Commonwealth for the collection of the levy.

It is not the Commonwealth's intention to seek to bankrupt debtors. Indeed, I understand that Mr Kerin has offered to consider arrangements which would make it easier for you to meet your levy debts. I see no other way in which you can be assisted.,

I have sent a copy of this correspondence to Mr Kerin, for his information.

The letter is signed, "Yours sincerely, Bob Hawke".

### HELENVILLE NURSING HOME

**Mr ZAMMIT:** I address a question without notice to the Minister for Health and Minister for Arts. Will the Minister inform the House whether any action has been taken against the proprietor of the Helenville Nursing Home at Strathfield following allegations first raised in this Chamber? Has any further information been provided following upon the two reported deaths at that nursing home?

**Mr COLLINS:** The honourable member's question provides me with an opportunity to inform the House of updated information about this important case. The matters that I brought to the attention of this House originally were vigorously denied by the proprietor of the Helenville Nursing Home, a Mrs V. Ciric. Indeed, a spokesperson for the Helenville Nursing Home even shrugged off the deaths of two patients, claiming the patients were in their late seventies and eighties. As a result of extensive investigation by the complaints unit of my department I advise the House that moves are under way to cancel the licence of the nursing home. On 1st November the secretary

of my department wrote to the proprietor of the nursing home advising her that she was in breach of the Private Health Establishments Act. Mrs Ciric had a fortnight in which to lodge submissions about the proposed cancellation, or to lodge an appeal in the District Court of New South Wales. No appeal has been lodged, and the Department of Health will now proceed with its notice of cancellation.

The proprietor's failure to conduct her nursing home in accordance with licensing standards means she is not a fit and proper person to be a licensee. Her failures include the admission of developmentally disabled patients; failure to have a registered nurse on duty at all times; failure to maintain adequate patient records; and several breaches of fire safety regulations. The complaints unit of my department has compelling evidence to support these allegations. The unit is continuing to pursue this matter with evidence for proceedings and the writing of reports for presentation to the Nurses Registration Board concerning professional misconduct of registered or enrolled nurses where appropriate.

The two deaths that occurred at the nursing home were not those of elderly patients in their seventies or eighties, as claimed, but a 17-year-old girl and a 21-year-old man. Natalie White, who was severely retarded, blind, and a quadriplegic from birth, died at Helenville, on 2nd July. Her death was due to hyperstatic pneumonia with severe brain damage and toxoplasmosis, which is a viral infection. Neil McKenzie, who suffered from retardation and epilepsy, died on 24th July. His doctor refused to sign a death certificate, claiming that the patient had been well two days before death. An autopsy was performed and the cause of death was ascertained as pneumonia with epilepsy. The complaints unit has advised me that the Sydney Medical Service, which certified McKenzie's death, has since failed to respond to the request for advice.

Nursing notes and medical records on these two patients have been found to be inadequate in detail and in the level of care provided. Legal advice is being sought on disciplinary action against the director of nursing, Mrs Ciric, and other nurses reportedly involved in providing care to these patients.

As to the developmentally disabled patients wrongfully made residents of Helenville, only a few remain. I have now approved funding to allow these four people to be relocated to a group home in the southern Sydney area health service. Finally, I wish to express my disdain for the Helenville operators who were tipped off by a spate of official investigations and tidied up their act sufficiently to persuade some journalists of their innocence. Let Helenville serve as a warning to substandard operators, a lesson to the gullible, and proof of this Government's determination to improve the lot of those confined to the State's nursing homes.

### PRISON ACCOMMODATION

**Mr LANGTON:** My question without notice is directed to the Minister for Corrective Services. Is an economic appraisal of the prison building program being carried out by consultants Nicholas Clark and Associates? What is the justification for paying \$1,200 a day for consultants to carry out a study already completed by the Department of Corrective Services, and \$5,000 simply to read the previous report? What will be the total cost of this consultancy?

**Mr YABSLEY:** It may have eluded the honourable member for Kogarah but certain things about corrective services and building programs have changed since this Government came to office. To match the Government's entire

program on law and order so that adequate accommodation can be provided for offenders, and as a result of the Government's policing and sentencing policies, we have embarked upon an unprecedented capital works program involving the construction of new gaols at Daruk, near Windsor, and at Lithgow. A third gaol will be constructed at a site, yet to be announced, somewhere in the country. It is absurd to suggest that in those circumstances we are simply maintaining the status quo on past appraisals of building activities in the Department of Corrective Services.

In addition to the three new prisons to be constructed, the Government is continuing a number of measures initiated, as is often the case in a capital works program, by our predecessors. The honourable member will be aware that those measures include the expenditure of \$12.3 million on a 60-cell special purpose prison at Long Bay to be completed early next year, and the \$7 million stage 2A redevelopment of Mulawa women's prison to provide 66 new cells, due for completion in 1990. Following action taken by the former Government, a body was established under the name of the Women in Prison Task Force.

[*Interruption*]

**Mr SPEAKER:** Order! I call the honourable member for Coogee to order for the second time.

**Mr YABSLEY:** It fell to a subcommittee of the task force to design the additions to Mulawa prison.

[*Interruption*]

**Mr SPEAKER:** Order! I call the honourable member for Hurstville to order.

**Mr YABSLEY:** What an extraordinary thing that was. The end result is that the security and the design elements of the gaol are so inadequate and substandard that there is no alternative but to change its classification from maximum security to minimum security. If the Department of Corrective Services is spending money on appraising its capital works program, I make no apology. That is being done to remedy past mistakes and the inadequacies of the former Government's capital works program—

[*Interruption*]

**Mr SPEAKER:** Order! I call the honourable member for Seven Hills to order.

**Mr YABSLEY:** —and also to monitor carefully what has been described by Government members and observers of the correctional system as the most progressive and expansionary capital works program in prisons in the history of this State.

## DEPARTMENT OF MOTOR TRANSPORT RECORDS

### Personal Explanation

**Mr Whelan:** I seek the leave of the House to make a personal explanation.

Leave granted.

**Mr Whelan:** My character has been impugned by the Minister for Transport alleging that I committed a breach of the law. On 26th October I attended the Five Dock motor registry, as any member of the public could, personally and not under any subterfuge, and completed a form in accordance with the Motor Traffic Act and motor traffic regulations. The advice to applicants in clause 6 of the form provides:

In accordance with the Privacy Committee's wishes, the subject of each search will be advised of and provided with a copy of the information supplied.

On payment of the sum of \$8, I obtained licence details in respect of registration OWU-942 and discovered that the vehicle was registered in the name of Gary Leon Sturgess of 24 Bent Street, North Sydney.

[*Interruption*]

**Mr SPEAKER:** Order! The honourable member for Ashfield cannot delay coming to the point of his explanation as a subterfuge for discussing the substantive matter. The honourable member may inform the House that he went to the motor registry office and obtained certain information legally, and that the Minister's imputations are incorrect, but he may not debate the matter. There are other forms of the House that allow him to do that.

**Mr Whelan:** Other inquiries were made, including one relating to Ian William Kortlang—

[*Interruption*]

**Mr SPEAKER:** Order! The honourable member for Ashfield is deliberately flouting my ruling. He has been a member of the House long enough to know the standing orders. If he does not come to the point of his explanation, I shall ask him to resume his seat.

**Mr Whelan:** To say the least, there were other searches that I, like any other member of the public carried out.

**Mr Dowd:** On a point of order. If the honourable member for Ashfield wishes to make a personal explanation, stating whether he, as a barrister, was acting on his own behalf, or in what capacity he was acting, the House will be interested to hear it. However, he is not explaining how his character has been impugned as claimed. He is abusing the privilege given to him, probably for the last time.

**Mr SPEAKER:** Order! The honourable member for Ashfield must explain to the House how his character has been impugned. As he knows, he is not entitled to debate the substantive matter. Many consistent rulings have been made by former Speakers on this point. I ask the honourable member to inform the House in simple language how his character has been impugned, and not persist in attempting to debate the substantive matter. Otherwise I shall ask him to resume his seat and the House will proceed with other business.

**Dr Refshauge:** Mr Speaker—

**Mr SPEAKER:** Order! I trust that the Leader of the Opposition is not canvassing my ruling.

**Dr Refshauge:** Certainly not. On a point of order. The Attorney General in speaking to his point of order made an implied threat that the honourable member for Ashfield would not again be permitted to make a personal explanation. I request that the Attorney General be directed to withdraw the threat made to the honourable member for Ashfield.

**Mr SPEAKER:** Order! As honourable members well know, the question of whether a member is entitled to make a personal explanation is within the province of the House. It would be a most dangerous precedent for any member to refuse another member the opportunity to make a personal explanation. Any decision is within the province of the House, and the Chair is but the servant of the House in that regard. The honourable member for Ashfield will conclude his personal explanation as quickly as possible.

**Mr Whelan:** The Minister said that I committed some breach of law. He said particularly that swearing a false declaration and production of fraudulent identification or misuse of information obtained can result in prosecution or a fine of \$500. I am reading from the application that is available for public perusal and use at the Five Dock—

**Mr SPEAKER:** Order! There is no provision in the sessional orders for the honourable member for Ashfield to read from documents in the course of making a personal explanation. He cannot debate the substance of the matter on which he is making his personal explanation. I have given him more than enough latitude. I ask him to resume his seat and I remind him that there are other forms of the House by which he can make a more detailed explanation, if he so chooses.

### **STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (No. 3)**

Suspension of certain standing orders agreed to.

### **LAND TAX (AMENDMENT) BILL**

### **LAND TAX MANAGEMENT (AMENDMENT) BILL**

Bills introduced and read a first time.

### **Second Reading**

**Mr FAHEY** (Southern Highlands), Minister for Industrial Relations and Employment, and Minister Assisting the Premier [3.13]: I move:

That these bills be now read a second time.

The principal purpose of the bills is to provide concessions that have already been announced relating to an increase in the land tax exemption threshold, a five-year land tax holiday for new rental accommodation, and an exemption for rental purchase schemes. The bills contain also a number of amendments to existing exemption and administrative provisions. In the economic statement in June the Treasurer announced that the land tax exemption threshold would be increased in line with inflation, in order to provide a measure of relief from the current burden of taxation. The amendments contained in the Land Tax (Amendment) Bill provide for an increase in the exemption threshold of 8 per cent, from \$125,000 to \$135,000, with effect from 1st January, 1989. This increase is slightly above the increase in the consumer price index of 7.3 per cent for the past financial year.

The Land Tax Management (Amendment) Bill provides for a five-year holiday from land tax for new residential developments if construction commenced on or after 2nd June, 1988, the date on which the Treasurer announced the concession. This concession will be available if construction is commenced before 1st January, 1994, by which time a review of the scheme

will have been undertaken to determine its effectiveness. This should encourage the construction of new rental accommodation and help to meet the current chronic shortage of rental premises, particularly in the Sydney market.

The bill introduces also an exemption for rental purchase schemes. Those schemes involve the purchase of land and construction of houses or units chosen by prospective tenants. Alternatively, they may involve the purchase by the lender of completed houses or units that meet the requirements of prospective tenants. Under such a scheme the parties enter into a fixed rental agreement that includes an option for the tenant to purchase the property within three years at a price that provides a specified rate of return to the lender equal to the usual interest rate on its loans. Participation in the scheme will be limited to people who meet the income test applying from time to time to the premier low start loan scheme. The rental purchase scheme is designed to assist people who have sufficient income to repay the requisite loan, but, perhaps due to high rental costs, have been unable to save a deposit. The scheme includes a savings plan to enable the tenant to save the deposit.

I turn to the remaining measures in the bills. Under the present legislation, land used for the purpose of primary production is exempt from land tax, except in the case of certain public companies. A public company must meet a more stringent test, namely that 90 per cent of its gross income must be derived from primary production. That test can operate to the disadvantage of certain primary producers. For example, in lean years income from primary production may temporarily fall below 90 per cent of gross income, which would mean the company would lose its exemption. The 90 per cent test also discourages companies from diversifying or keeping adequate reserves in either cash or other forms of investments to see them through the lean years.

The legislation will overcome these problems by imposing the same test for public companies as applies for other primary producers in non-urban areas. To guard against avoidance it will be necessary for a public company to show that land in urban areas is used for the purpose of carrying on a business of primary production in order to qualify for the exemption. In order to overcome a restrictive interpretation adopted by the courts the definition of land used for primary production is being amended to encompass commercial fishing and the raising of wild animals such as deer. A redundant concession for stud ewes will be abolished.

The legislation will restore a stamp duty refund on the transfer of a family residence held in the name of a family company as at 31st December 1975 to the principal shareholders. This provision was inserted in the Act in 1975 when principal places of residence became exempt from land tax. As companies were not entitled to the exemption, provision was made for the stamp duty refund so that families could take advantage of the land tax exemption without attracting stamp duty. The refund provisions that are being re-inserted were repealed in 1985 by the previous Government. Section 47 of the Land Tax Management Act provides that land tax is a first charge on land in priority over all other encumbrances. A prospective purchaser may seek a certificate under section 47 of the Land Tax Management Act showing whether any land tax is owing on the land, but at present this provides limited protection to a purchaser in the event that a clear certificate is incorrectly issued. It provides no protection to a mortgagee, lessee or occupier of land. The amendments will ensure that a bona fide purchaser, mortgagee, lessee or occupier of land may rely on a clear certificate if that certificate subsequently proves to have been incorrectly issued, unless the person had notice at the time the certificate was issued of an outstanding land tax liability.

Prior to 1985 all land owned by charitable, educational or religious bodies was exempt from land tax, regardless of the use of the land. In 1985 the Act was amended to restrict the exemption to land owned by one of these bodies, or used by another exempt body or person. The effect of this amendment was to reduce the funds available to those bodies for their charitable, educational or religious functions. The legislation will restore the position to that which applied prior to 1985. In order to qualify for the exemption one of the conditions which must be met by these and other non-profit bodies, such as clubs and associations, is that they must not be carried on for pecuniary profit of their members. The courts have held that this provision gives an exemption, even if individual members are able to receive a pecuniary benefit when the body concerned is wound up. This interpretation opens up a tax avoidance loophole by allowing a landowner to set up an exempt organization to hold the land while retaining control, as well as the right to reclaim the land or the proceeds of sale by winding up the exempt body. The legislation will remove the exemption if a member or members are able to obtain a pecuniary benefit upon a winding up. However, in order to ensure that bona fide exempt bodies are not adversely affected, the Chief Commissioner of Land Tax will have a discretionary policy to restore an exemption if the body concerned agrees to amend its constitution to comply with the requirements of the Act.

Under the present legislation a person occupying Crown land pursuant to a lease or licence is liable to land tax as if the person were the owner of the land. Exemptions apply to lessees in the same way as they apply to owners of land. These provisions are to be extended to land owned by local and county councils and exempt public authorities in order to bring them into line with the treatment of Crown land, as well as land owned by these bodies and subdivided under the Strata Leaseholds Act. In order to provide adequate notice of this change to lessees, liability will not commence until the 1991 tax year. The bill includes provisions to defeat a land tax avoidance scheme under the strata titles legislation. The scheme involves the allocation by a developer of a minimal number of units to undeveloped land in a staged strata scheme, which results in an understatement of the value for land tax purposes. The bill will allow the Chief Commissioner of Land Tax to appeal to the Strata Titles Board against the allocation of unit entitlements which are unreasonably made. The Chief Commissioner will be able to issue a reassessment of land tax if the Strata Titles Board reallocates unit entitlements.

The legislation will replace existing objections and appeals provisions with updated provisions to bring them into line with the Stamp Duties Act. These provisions include a right for an objector to receive interest at a prescribed rate where a refund is due as the result of an appeal to the Supreme Court. Other amendments of an administrative nature are being made to provisions relating to lodgement of land tax returns by 31st January in each year, an increase in the amount of tax that may be written off by the Chief Commissioner, amendment of assessments where a taxpayer fails to disclose all relevant information and simplifying requirements relating to applications for reduction in tax on residential flats held under company title. I commend the bills.

Debate adjourned on motion by Mr Beckroge.

### PERSONAL EXPLANATIONS

**Mr SPEAKER:** Order! Earlier today in response to a point of order raised by the Deputy Leader of the Opposition I advised the House that a personal explanation is allowed with the indulgence of the House. This is the procedure set forth in Standing Order 137. I wish to inform the House that I erred in that advice as sessional orders for this session agreed to by the House on 17th August, amend that position as follows:

Having obtained leave from the Speaker, a member may explain matters of a personal nature although there be no question before the House; but such matters may not be debated.

I advise the House that the Chair will always uphold a member's right to make a personal explanation within these terms.

### CRIMES (AMENDMENT) BILL

#### Second Reading

Debate resumed from 15th November.

**Mr NAGLE (Auburn) [3.25]:** Having listened to the honourable member for Cronulla and the honourable member for Carlingford last evening, I now know what the people of Rome would have done if Mark Antony's speech of the Ides of March had failed. Both speeches were abusive attacks on members on this side of the House in relation to the contributions that they had made, instead of examining in detail the purpose behind the bill. I put to the House that nothing constructive came from either speech and in my view both speeches failed miserably to address the bill. One of the prime purposes of the bill, as set out in the second reading speech of the Attorney General is:

This bill has been drafted in keeping with the Government's election promises to effectively combat delays within the courts, increase the efficiency of the administration of the criminal justice system, and review and reform the law regarding various criminal offences.

That is the declared basis of this piece of legislation, but when one looks at it one feels bound to ask how far will it go in delaying the courts, particularly in dealing with lengthy trials. For example, one part of the bill increases the maximum penalty for car stealing from five years to 10 years. My years of experience as a barrister lead me to conclude that that will encourage many offenders to defend their cases; court hearing delays will continue as accused persons defend charges and try to fight off the sentence of 10 years that they may get for car stealing. When it comes to joyriding, though the Attorney General said that that is a bad term to use—people who are charged with that offence will now defend the charge because the maximum sentence will be increased from two years to five years. That amendment also, in my submission to the House, will not help reduce court hearing delays. It will result in lengthy trials to see whether a jury will convict. If the premise is that heavy penalties discourage juries from convicting, then in my submission increasing maximum sentences from five years to 10 years and two years to five years will disincline juries to convict. The Attorney General, in his second reading speech, said also:

For example, in 1985, 95 persons were charged with riot arising out of the Easter Bathurst motor cycle races. Considerable difficulties have arisen in the prosecution of these accused. The maximum penalty for the offences charged is life imprisonment, and there is a consequent inducement for a plea of not guilty.

That is a common law offence. However, the judge also has the power to sentence the convicted person to a day's imprisonment or to the rising of the court. There is a minimum and there is a maximum. The bill provides for a

maximum of 10 years for a conviction for riot, so people will know that if they plead guilty to such an offence they can look forward to 10 years in gaol. It may have been better to look to a system of plea bargaining to encourage people to plead guilty as opposed to increased penalties. That would cut down the delays in the courts by reducing the number of lengthy trials and the millions of dollars it costs the taxpayers of New South Wales to try these people. The Father's Day massacre provides a good example of the problems that arise when these crimes are committed. There were a number of people who formed part of the actual shooting. There were those involved in the common purpose to shoot. There were others that the jury eventually held were part of the affray.

That trial, which continued for more than one year, cost the taxpayers of New South Wales millions of dollars. That case could have been resolved had the Government examined a plea-bargaining system which would have reduced the delays in court hearings and reduced the length of trials. Time will tell whether this legislation achieves its main objectives. After listening to the Attorney General's second reading speech it is my view that the objectives of the bill are to discourage and stop affrays and riots, decrease the incidence of car theft, and reduce court hearing delays and, in particular, the length of trials. The question is whether this legislation will be effective in reducing the incidence of car theft in years to come. When juveniles steal a car for the purpose of joyriding, the last thing they think of is the penalty they will incur if they are caught.

The honourable member for Carlingford asked what would one tell a client who was arrested for car stealing. One would have to say, "The penalty will be 10 years' imprisonment". That is after the deed has been done. It is better to prevent the deed occurring. The honourable member for Londonderry made the suggestion that car manufacturers should be encouraged to produce cars with more effective anti-theft devices, and I commend that suggestion. Car theft is a problem in the community. I have had my car stolen as I believe have other honourable members. The introduction of higher penalties will discourage car theft. In two years' time we will know whether this legislation has been effective in reducing the incidence of car theft, joyriding and also incidents, such as the Bathurst riots and the Fathers' Day massacre.

Another point of concern is the right of giving summary jurisdiction to a defendant who has not asked for it. I sympathize with and understand the views expressed by the Attorney General about people not taking summary jurisdiction by a magistrate but then making a no bill application to the Attorney General. That happens frequently in domestic violence cases. Often offenders choose to go to trial in the hope that they may be acquitted. To insist that a case is heard in a summary jurisdiction takes away the fundamental right given in 1215 in the Magna Carta—the right to be tried by one's peers and the right of trial by jury. An accused person should be permitted to elect whether to have the charge heard before a jury. If a magistrate deals with an offender summarily and imposes a sentence, if it considers that the penalty is not sufficient to meet the crime, the Crown has the right to appeal to the District Court.

No doubt the Attorney General hopes the provisions in this bill will rectify that mischief. Whether that is the way we should go about it remains to be seen. We do not want legislation which is of the oxbow mentality, that is, "Let us lynch them; hang them high; throw them into prison for five years". The Minister for Corrective Services has said that prison is the last resort. When this legislation is enacted, the magistracy in New South Wales will interpret its provisions as meaning that higher penalties should be imposed and they will

impose fines at the upper end of the penalties set down. People convicted for the first or second time only will be sent to prison and incidents such as that of Jamie Partic will occur. One hopes that judges and magistrates will judge cases on their merits as opposed to what they believe the Legislature has directed.

**Mr Kerr:** They do look at cases on their merits.

**Mr NAGLE:** They do not. Magistrates interpret the legislation literally. The honourable member has been at the bar long enough to know that. Offenders cannot be sent to the colony of New South Wales for stealing rabbits or for stealing cars. Next century offenders may be sent to Mars. The Government's attitude is: out of sight, out of mind; let us send them to gaol and the car thefts will cease. In 12 months or two years we will know whether this legislation has been effective in rectifying the mischief it purports to remedy.

Proposed sections 93B and 93C of the legislation deals with *mens rea*, the mental ability to be able to formulate the intention to commit a crime. Hundreds of books have been written on the subject of *mens rea*: Archbold's *Criminal Pleading Evidence and Practice*; Brett and Waller's *Criminal Law Text and Cases*; Edwards and Harding's *Cases on The Criminal Code*; and Howard's *Criminal Law*. However, we have to spell it out in the legislation by saying a person is guilty of riot only if the person intends to use violence or is aware that his or her conduct may be violent. R. P. Roulston's book, *Introduction to Criminal Law in New South Wales*, which I am sure the honourable member for Cronulla and the Attorney General would have used when practising the law, deals with the issue of *mens rea* on pages 17 to 45. He deals with the subjects of affray and riot for about six or seven pages, yet we have to legislate for it. Those offences have been litigated through the courts for more than 500 years. Part 3A deals with offences relating to public order and defines lawful violence. Police officers exercising violence for the purposes of protecting their person would be using lawful violence. A person defending his property against a trespasser or defending his person against a trespasser is using lawful violence. The question then is, what is lawful violence? Proposed 93B reads:

(1) Where 12 or more persons ...

There must be 12 persons:

... who are present together ...

So they have to be present and together:

... use or threaten unlawful violence for a common purpose ...

There must be the common purpose to threaten or use unlawful violence:

... and the conduct of them (taken together) is such as would cause a person of reasonable firmness ...

I shall be interested to hear what the Court of Appeal considers to be reasonable firmness:

... present at the scene to fear for his or her personal safety, each of the persons using unlawful violence for the common purpose is guilty of riot and liable to penal servitude for ten years.

(2) It is immaterial whether or not the 12 or more persons use or threaten unlawful violence simultaneously.

Riot may be committed in private as well as in a public place. It would be possible to have a riot at a trade union meeting, or at a Liberal Party meeting. The view of the Attorney General about a riot commencing in private,

expressed in his second reading speech, was that a riot or affray starting in a private place would spill out into a public place where it would then be covered by the law if a person of reasonable firmness could feel threatened. But what would happen if the riot were contained solely within private premises? It is possible that the common law would not cover that. The court has had good reasons for not interfering with people who might have an altercation in their own homes or in other private places. This is because society is composed of individuals with differing tempers and temperaments. In this way a riot could commence at a trade union meeting, or, if a Liberal party meeting of 12 or more persons were possible, even there.

**Mr Roberts:** And at a Labor Party meeting?

**Mr NAGLE:** No, never at a Labor Party meeting. Proposed section 93C takes the same format as proposed section 93B. The penalty for affray will be five years' imprisonment. In that case, if two or more persons use or threaten the unlawful violence it is the conduct of those people taken together that must be considered for the purpose of subclause 1. If there are less than the 12 needed to constitute the riot, there would be simply an affray, and, if less than two, there would be no affray—perhaps nothing. The next matter concerns the reference to persons of reasonable firmness feeling threatened by the unlawful conduct. No person of reasonable firmness need actually be, or be likely to be, present at the scene. This means that no member of the public actually needs to be there in order for a conviction to be recorded for affray or riot. I have already spoken of *mens rea*, the mental intention that would constitute the intent in proposed sections 93B and 93C. A person shall be guilty of riot—affray is mentioned later—only if that person intends to use violence or is aware that his or her conduct may be violent. That pertains also to the charge of affray.

All the texts that have been written and used by students and lawyers over the years, such as that by Roulston, show how the common law has developed from the *mens rea*. Here, for the first time, the offence is embodied in legislation. The measure goes further to deal with the offence in summary fashion. Proposed section 495 (1) states that proceedings for an offence under sections 56, 58, 59 or 61 may be disposed of in summary manner before a Local Court constituted by a magistrate sitting alone. The penalty in that case is 12 months or a fine not exceeding \$1,000, or both, for two of the offences, and for the other two a penalty of two years or a fine not exceeding \$5,000, or both. The magistrate is permitted discretion to decline to deal with an offence and may commit the matter for trial. That is all very well in theory, but will it work in practice? How will the courts interpret the legislation? And how will a riot or an affray involving drunks and drug addicts be dealt with? Will those addicts be able to form the necessary *mens rea* to be able to constitute the charge? These problems must be dealt with.

Plea bargaining is another matter at which the Legislature should look to try to reduce hearing delays in courts. Justice delayed is justice denied. Plea bargaining would help the judiciary, the Crown and the accused to determine where each must stand. Most important, it would help the taxpayers of New South Wales who must pay millions of dollars for long, drawn-out trials such as the Bathurst riots case and the Fathers' Day massacre. The result for those people was imprisonment but other aspects could have been looked at to save the taxpayer additional expense, while at the same time punishing the offenders as adequately as the community would demand.

The offences of car stealing and of riot and affray are serious indeed. I sympathize with the Attorney General in what I see as his attempt to come to terms with the matter and to rectify it. It is a growing problem. The proof will

be in the pudding and the eating. In one or two years down the track we shall see whether this legislation has effectively reduced the crimes of car stealing and riot and affray, whether higher penalties have deterred people from committing these offences. I suggest that the Government would do far better to look at other means of dealing with the problem than by introducing higher penalties and incarcerating people. Taxpayers must pay between \$50,000 and \$80,000 a year to keep prisoners incarcerated. Although the matter is difficult, the Government, in the ultimate, should look for alternatives to imprisonment.

**Mr NEWMAN** (Cabramatta) [3.45]: In addressing the Crimes (Amendment) Bill I support what has been put forward by other members of the Opposition. There will be no division on this bill even though certain criticism must be levelled at aspects of it, as was pointed out by the honourable member for Auburn, the honourable member for Londonderry and the honourable member for McKell. In certain ways I see a genuine attempt in this bill to tackle the difficulties of dealing with law and order. Briefly, the bill deals with four matters. First, the measure will abolish the common law offences of riot, rout and affray; second, will amend the law regarding *ex officio* indictments in relation to the offences of culpable driving and culpable navigation; third, it will amend the law regarding common assault; fourth, it will create a new offence of car stealing and for that provide a period of 10 years' imprisonment.

First, I shall deal briefly with the common law offence of riot and affray and the statutory offence of culpable driving. Schedule 1 of these amendments to public order legislation creates the statutory offences of riot and affray and abolishes the common law offences of riot, rout and affray. The new offence of riot provides that at least 12 persons must use or threaten unlawful violence for a common purpose that would arouse fear in a bystander of reasonable firmness. The new statutory offence of affray is also created. These offences can be committed in public or in private. Riot is to be punishable by 10 years imprisonment, and affray by five years. Both can be dealt with summarily. These statutory offences complement the summary offence of violent disorder introduced earlier this year.

In schedule 2 the offences of culpable driving and culpable navigation enable indictable charges to be reviewed by way of *ex officio* indictments by either the Director of Public Prosecutions or the Attorney General. Schedule 4, in dealing with amendments to sections relating to assaults, creates a particular concern. In general, my view of the bill is that it is a rationalization of the law on assault and moves towards ensuring that minor matters do not clog up the District Courts. The bill will repeal certain sections dealing with common assault, aggravated assault and others to be dealt with on a summary basis. Schedule 4 will increase the penalty for an offence under section 58, which is assault with intent to commit a felony on certain officers, from two to five years' imprisonment. The maximum penalty that can be imposed for an offence under section 56 and section 61 is dealt with summarily under the proposed sections by imprisonment for 12 months or a fine of \$1,000 or both. Section 56 deals with obstructing a clergyman in his duty and section 61 deals with the offence of common assault. The maximum penalty that may be imposed for an offence against section 58 or section 59, to be dealt with summarily under the proposed measure, is imprisonment for two years or a fine of \$5,000 or both. Section 58 deals with assault with intent to commit a felony on certain officers, and section 59 is the indictable common assault prosecution measure.

Police crime statistics for 1987 and 1988 reveal that in New South Wales offences against the person increased by 14.18 per cent, or by 3 122 offences. Non-aggravated assaults have increased by 2 426 offences, or 17.66 per cent.

The number of reported aggravated assaults increased by 327, or 8.69 per cent. In the Sydney metropolitan area there was an increase of 15.08 per cent in offences against the person. Honourable members of all electorates throughout New South Wales should be alarmed by this increase. A number of electorates witnessed increases in the number of offences against the person; for example, Newcastle by 32.32 per cent; Parramatta 14.33 per cent; Penrith 31.31 per cent; Liverpool 24.04 per cent; Blacktown 24.38 per cent; Ashfield 19.76 per cent; Port Macquarie 23.25 per cent; Maitland 25.27 per cent; Lismore 29.95 per cent; and Gosford 16.1 per cent. Those percentages are alarming and must be of concern to the Attorney General and the Minister for Police and Emergency Services. Only in the latter part of the present Government's term of office have we witnessed positive action in respect of offences against the person.

**Mr Dowd:** The Government has been in office for only seven months.

**Mr NEWMAN:** I should think that seven months was a reasonable time in which to at least attempt to address the problem, which was the coalition's pre-election promise in relation to law and order. It said that law and order would be given priority. I concede that the Government reintroduced the Summary Offences Act, which to a certain degree has assisted police with regard to offences against the person. However, when statistics of this type are being analysed problems arise, especially when the Minister for Police and Emergency Services is not accessible. The tactic employed by the Liberal Party and National Party of having the Minister for Police reside in another place concerns me, as I am sure it concerns many others. The Government says to the electorate that law and order is fundamental and must receive priority, yet it hides the Minister for Police in another place so that he is not accessible to—

**Mr Dowd:** On a point of order. The Minister for Police and Emergency Services is represented in this House by me. Had the honourable member for Cabramatta wished to ask a question of the Minister, I would have been only too happy to deal with it. It is silly to suggest that the Government is hiding a Minister in the upper House. It might well be suggested by members of the Legislative Council that the Government is hiding Ministers in the lower House. Every Minister who resides in the upper House is represented in this Chamber. Honourable members are aware that governments of all persuasions have had Ministers in the Legislative Council.

**Mr SPEAKER:** Order! The subject raised by the Attorney General is scarcely appropriate to the point of order. The point of order that perhaps should be raised is relevance. The composition of the Ministry in the upper House as compared with the lower House is not within the scope of this bill, to which I ask the honourable member for Cabramatta to return.

**Mr NEWMAN:** I now address schedule 3 to the bill, which deals with amendments related to the offence of car stealing. I note proposed section 154AA and the proposed maximum penalty of 10 years imprisonment. I note also the proposal that the amendment be summarily actionable, the proposed section that deals with joyriding, and the increased maximum penalties from 12 months imprisonment and \$1,000 to two years imprisonment and a fine of \$5,000. As honourable members will be aware I have personally experienced my car being stolen. The unique characters who stole my motor vehicle provided me with photographs of themselves, which led to their easy apprehension. I remember the feeling I had when my car was stolen. I remember a sense of deeper sympathy for those who have their car stolen and who rely heavily on their vehicle as an essential work carriage and for other extreme necessities. The offenders who stole my car had some fun and games by burning the back seat of the motor vehicle. I do not have much sympathy for joyriders.

It is apparent from the police crime statistics I read to the House earlier that in 1987-88 motor vehicle thefts totalled 53 092 compared with 67 700 in 1987; a decrease of 11 608, or 17.94 per cent. The statistics reported that motor vehicle thefts had reached their lowest level since 1982. The decrease was more apparent in the western and inner-city western suburbs of Sydney. The report reveals that persons 17 years of age or younger were well overrepresented among those arrested for car stealing during 1987-88. Juveniles accounted for 49.22 per cent of those arrested for that offence. The New South Wales statewide average decrease in motor vehicle theft offences was 17.94 per cent. Statistics reveal also that car stealing offences decreased in the metropolitan area by 20.01 per cent; in Blacktown 25.26 per cent; in Parramatta 28.34 per cent; in Penrith 29.22 per cent; in Ashfield 19.56 per cent; and in Liverpool by 24.65 per cent.

Those are 1987-88 statistics and are a reflection of the initiatives implemented by the previous Labor Government. The Liberal Party-National Party coalition can take no credit from those figures; it was in office for only three months when the statistics were published. The statistics prove that the Labor Government was on the right track and its policies were bringing about a downturn in motor vehicle thefts. I mentioned that juveniles accounted for 49.22 per cent of all persons arrested for car stealing. One of the key reasons for the reported reduction in offences was the amendments contained in Labor's Offences in Public Places Act that related to juvenile drinking. In many instances juvenile drinking leads to the commission of other crimes, including motor vehicle theft. I remember when the Offences in Public Places Bill was debated in this House the Opposition of the day had reservations about portions of it. I recall the honourable member for Lane Cove, as he then was, saying that he saw nothing wrong with juveniles drinking champagne and eating chicken on the beach. I remember also that I said that juveniles in the western suburbs would think themselves fortunate to have a can of beer to drink and cold chips to eat.

I repeat that the 1987-88 statistics are a credit to the former Labor Government. I hope that the rate of motor vehicle theft will continue to decline. Insurance companies seem to lack an appreciation of the reduction in car stealing offences. Most western suburbs electorates, particularly those in the southwest, are categorized by insurance companies as being high risk areas for vehicle theft, and this is reflected in high insurance premiums. It is time that insurance companies accepted that car theft is decreasing and that something must be done about reducing premiums. The amendments proposed in this bill may prove a deterrent and lead to a further reduction in offences. Recently I suggested to the Minister for Police and Emergency Services the initiative of a feasibility study to obtain greater civilian participation with police officers in the surveillance of car parks at peak hours. I have not received a reply from the Minister, but that would be one way of dealing with this problem. Local government areas, particularly those with high unemployment and high youth populations, should look at ways of solving the problem.

Proposed new section 154AA provides that any person who steals a motor car is liable to penal servitude for 10 years. Proposed new section 526A (1) proposes that the penalty for indictable offences dealt with summarily be increased from 12 months' to two years' imprisonment, and the fine be increased from \$1,000 to \$5,000. I ask the Attorney General if this provision is a watering down of the severe penalties for car stealing. Will an accused person, with consent, be able to request that his matter be dealt with summarily, and so be liable to a lesser fine and a lesser period of imprisonment? I do not offer severe criticism of the bill. Anything that will deter car theft will be an asset.

**Mr DOWD** (Lane Cove), Attorney General [4.3], in reply: I thank all the honourable members who have contributed to this debate. Since the Government came to office, about 30 bills have been introduced, so I do not understand how it can be accused of being dilatory. Some thoughtful contributions, particularly by the honourable member for Londonderry, have been made to this debate. The House has not yet been informed if the Opposition opposes the bill. The honourable member for Ashfield said that he opposes the bill but will not vote against it. He made some criticisms of the legislation but other Opposition members have not opposed it. Presumably the honourable member for Ashfield will vote with the noes and other Opposition members will remain silent. If the shadow attorney general, who speaks for the Opposition on this bill, is followed by Opposition members who support the legislation, the Opposition will look ridiculous. Either it supports the legislation or opposes it. Opposition members should come to an understanding about its attitude to the bill.

A number of contradictory contributions have been made to the debate by Opposition members. I shall deal first with the final point raised by the honourable member for Cabramatta. The offence of taking a conveyance without the consent of the owner has not changed. The penalty will be increased from 12 months' imprisonment to two years' imprisonment, and from a fine of \$1,000 to \$5,000. The increase in fine reflects the increase in the cost of living. The Opposition made some ridiculous points in this debate, maintaining that the penalty for this offence is 10 years' imprisonment. As any honourable member should know, the penalty ranges from nothing up to 10 years. We do not have mandatory or minimum penalties. A magistrate can impose a penalty ranging from dismissing the charge under section 556A of the Crimes Act, the imposition of a bond, a sentence to the rising of the court, or a fine. It is ridiculous to maintain that the offence carries a penalty of 10 years' imprisonment. Some Opposition members claimed that such a penalty is bad; others claimed that it is good. It is a pity that they cannot get their act together.

The Government has codified riot and affray and brought it under section 476 of the Crimes Act, which is a crucial and pivotal section under which the court hears the evidence, decides whether a prima facie case has been established, and makes a decision. The defendant has the right to elect to have the matter dealt with summarily or on indictment. The range of human activity covered by the terms affray and riot is almost infinite. References have been made to the Bathurst riots. I have watched some of the videotapes of those riots. The offence of riot or affray can involve anything from simply being present, calling out or raising a fist, to attempted murder.

No police officer should have to experience the terrifying events that occurred during the Bathurst riots. The law must be changed to deal with such incidents. If a serious offence is committed, a range of penalties can be applied. Only in rare circumstances would life imprisonment be imposed, but the provision exists. The Government has instituted a code. Eliminating the offence of rout and codifying riot so that minor offences can be dealt with by a magistrate, will enable a defendant, subject to the magistrate's discretion, to elect to have the matter dealt with summarily. He will receive quick justice and in many cases a short incarceration. If the magistrate rejects the defendant's election, the matter will be dealt with in the normal way on indictment.

Section 476 is a pivotal section that I have already advised my officers to examine. I am not satisfied that the discretion in section 476 is satisfactorily set out. Subsection (3) of the section gives a simple, unfettered and absolute discretion and should be used to assist the courts. Increasingly, the Parliament

and the Government have used section 476 to cover a series of offences, as a result of my view of how that section should be applied. However, the question of how the section could be of more assistance to the courts is the subject of review.

Some of the statements made about riots were silly. The offence of riot is not applicable to every unlawful assembly or lawful assembly. The honourable member for McKell was concerned, quite rightly, about the alleged participation of Aborigines in riots. I share that concern. Last week I visited Bourke, Brewarrina and Murrin Bridge, near Lake Cargelligo, to learn a little more at first hand about the problems. I had discussions with the local communities in those towns about how to deal with this problem. However, if Aborigines participate in a riot they cannot be treated differently to other participants. A riot is a riot and all participants will be treated equally. There will not be bias for or against Aborigines. Sociological problems that give rise to Aboriginal participation in riots is not a matter to be dealt with in a criminal statute. It is not enough for members of the Opposition to say there should be another solution, and we must do this or that. While the Government is solving some of the other problems, it cannot say it does not matter if offences of riot have been committed. I have a responsibility for the administration of justice and the courts.

I have introduced these measures because of a problem here and now. It is inappropriate to suggest that this legislation resulted from what happened in Redfern. Some months prior to those happenings I had been considering these amendments. I recollect when introducing the Summary Offences Bill I foreshadowed my introduction of this legislation. The legislation was drafted, and it was appropriate to be introduced this session. I have codified the law and made it certain. As a result a defendant will be able to obtain proper advice as to whether he should enter a plea and whether he should be dealt with summarily or by way of an indictment before a jury. That decision will be taken by individuals acting on legal advice in all the circumstances.

I do not wish to deal with the Bathurst matters as several cases are still before the courts. However, the increased use by the police of the common law offence of riot has created a problem that ought to have been addressed some time ago, and has been addressed by this Government. The honourable member for Ashfield spoke nonsense about a proven principle of criminology that penalties do not prevent crime. I start to worry when the shadow attorney general speaks about proven principles of criminology. If he has heard of them, I believe there is reason for concern. It is not a proven principle of criminology that penalties do not have an effect. They do. Obviously penalties are not the only answer; they are only part of the answer. However, people are conscious of penalties and change their habits accordingly. If youngsters know they will receive a bond if they commit an offence, there is no deterrent effect. Some of those youngsters might be 17-year-old thugs and criminals. Honourable members should not underestimate them simply because they are under eighteen years of age. However, there is no doubt that they are deterred by penalties.

I remember a magistrate before whom I represented a client on a fare evasion charge. He fined my client the maximum of \$40 instead of, as might have been expected, dismissing the matter under section 556A. At morning-tea the magistrate said to me, "She will not be back". My client was a distant relative of mine and I was delighted with what the magistrate did. That incident happened some time ago and she did not re-offend. We cannot accept the nonsense that penalties are not the answer. Though they are not the total answer, they are a damned good start with a significant percentage of the

community. Of course some people are not deterred by penalties; but many are. The Parliament is entrusted by the people with the obligation to legislate to deter crime. This Government will deter crime by legislating for proper penalties.

Not one member for the Opposition addressed the proposition that penalties do not provide only for a first offence, but provide for all offences. A person who has previously committed an offence and been convicted—whether for car stealing, riot, or whatever—knows what will happen the next time he is convicted, and the time after that. That is how habitual criminal legislation always has operated. In New South Wales, and indeed throughout Australia, people have to work hard to get into gaol. Having been imprisoned, they know what will happen if they re-offend. The Government will not shirk its obligation clearly given by the community to legislate for appropriate penalties.

It is nonsense for the Opposition to make cynical comments about our trying to get headlines. The Government has an obligation to ensure that the court system works. The community is sick to death of people committing serious crimes such as riot and affray, and everyone saying that there must be a sociological problem for which we must supply an answer. The honourable member for Broken Hill will be delighted to learn that the Labor Party had no answers during its 12 years in office, except right towards the end of its term when it realized it was in difficulty and introduced a series of draconian penalties for various offences. The previous Government knew it had made a mistake, but tried far too late to do anything to regain the confidence of the public.

The honourable member for Londonderry spoke about car stealing, and I thank him for his remarks. The Parliament must seriously consider legislating to have vehicles and their major parts stamped with serial numbers. I am always worried when a member of my family loses a set of car keys, and perhaps a second and third set of keys, and that it takes only 25 to 30 seconds for someone to open a car door with a piece of plastic. That is frightening. The federal Government and the State Government have a responsibility to ensure that cars are made more thief-proof. That is the first step in preventing their theft.

The honourable member for Londonderry raised another matter with which I agree. He said that the offence of receiving must be treated as the major cornerstone of organized crime. The Government must provide harsh penalties for people convicted of receiving. At present that offence does not carry a sufficiently heavy penalty. I advocate differential penalties whereby an offence of removing impressed serial numbers from a vehicle carries a higher sentence than an offence involving vehicle parts the serial numbers of which have not been tampered with. In that way I believe the insidious hotel and garage sales of stolen vehicle parts could be stopped. The Government is considering that matter.

*[Interruption]*

**Mr SPEAKER:** Order! Honourable members on the Opposition benches should desist from conversing, or leave the Chamber.

**Mr DOWD:** All the defects in the Crimes Act cannot be cured in the one bill. If we waited to do that, we would never make any changes at all. However, in the autumn session of Parliament I intend to introduce legislation to cure some of those defects. The honourable member for McKell may be assured that, as with the summary offences legislation, I propose to keep a close watch on problems involving Aborigines. Major social changes are taking place

and obviously the Crimes Act is the last legislation to be used to solve those problems. However, no individuals can be above or outside the law; all New South Wales citizens must be treated in the same way. Alternative ways of dealing with different communities, such as the Aboriginal community, are being considered by my department. The monolithic nature of the English common law and the English stream of statutory law does not adjust to different communities, as it ought.

We must accept that in Australia we do not have a single strand of culture. There are various other groups, such as the people of the Muslim faith, who have very different laws in relation to custody and such matters. Our law has to adjust to that fact. I have told the group that I have set up, which is discussing those matters, that our law has to become much more flexible. It has to accept the cultural differences that exist. I must say that one of the most distressing days of my life was my visit to the Murrin Bridge community of 300 Aboriginal people. In 1947 three different tribes were transported by bus and just dumped there. The social fabric of the community has gone. There is no elder structure. The settlement is 15 kilometres outside the main town.

There is a whole mess of problems, including the terrible federal Government structure of the Department of Aboriginal Affairs and the Aboriginal Development Commission. That was a most unpleasant day. The Government is conscious of those communities and I assure the honourable member for McKell that I will do as much as I can to keep the matter under review. I shall deal briefly with a couple of other matters. The honourable member for Ashfield raised the matter of *mens rea*, the mental element in proposed sections 93B and 93C. If the honourable member had looked at proposed section 93D, even though it is not necessary to import the component of *mens rea*, the fact is that it is specifically listed in that section. The mental element is there.

**Mr Whelan:** No, it is an objective test.

**Mr DOWD:** It is an objective test, but the honourable member for Ashfield should not interject on matters he does not understand. It is an objective test as against a subjective test as to whether the necessary ingredients of riot have been made out. In those sections dealing with affray the objective test has nothing to do with the component of *mens rea*. The honourable member should ask a lawyer what that provision means and then he might not waste so much of the time of the House. I thank the honourable member for Cronulla, the honourable member for Carlingford, the honourable member for Auburn, the honourable member for Londonderry, the honourable member for Ashfield and the honourable member for McKell for their contributions to the debate. It has not been an easy piece of legislation to debate. It is a grab bag of several important sections of the Crimes Act. This is an important step towards solving the problems of riot and showing the community's abhorrence of car theft. A sentence of five years' imprisonment is apparently the acceptable penalty to the honourable member for Ashfield for the theft of a car worth a quarter of a million dollars. He is happy with a maximum penalty of five years' imprisonment for an offence of stealing a motor vehicle valued at \$100,000.

As I have said to the House before, I have had cars stolen and I have some idea how it feels. Leaving aside my own personal inconvenience, the cost to me was not very great: my cars rarely are expensive. We have an obligation to indicate to the courts the range of penalties and the 10 years' penalty that we have imposed is the primary matter that will indicate the seriousness of the offence. The matters put forward relating to joyriding are silly. We have not

changed the offence of joyriding, if honourable members opposite wish to use that term. We have changed the penalty only. All the waffle about the harm to young people and so on is nonsense.

Motion agreed to.

Bill read a second time and passed through remaining stages.

## RESIDENTIAL TENANCIES (AMENDMENT) BILL

### Second Reading

Debate resumed from 10th November.

**Mr E. T. PAGE** (Waverley) [4.25]: The Opposition will be proposing a significant number of amendments and I shall present them to the Clerk as the debate proceeds. The Minister for Housing delivered a pathetic second reading speech on this bill. One thing he did not say—which, in view of his performance last year, I thought would have been worth a mention—is how much of the bill that was passed last year is being retained. On reading his rambling contribution to the debate on last year's bill, one would have thought that every clause in it would have driven 10 000 landlords out of the rental market. He is acknowledging that a large proportion of the bill that was passed last year now meets with his approval. That bill received broad community acceptance. After its passage through the two Houses, there was agreement from tenancy groups generally that it was an improvement on the existing legislation. The Real Estate Institute commented favourably on it. There was no great exodus of landlords from the rental market. So the community generally accepted what had passed.

The Minister said a couple of significant things in his second reading speech. He said the purpose of his bill is to restore an appropriate balance between the rights and obligations of landlords and tenants. He believed—and still does, apparently—that previously the scales had been tipped inappropriately against the landlord. That, of course, is balderdash. Particularly in tenancy matters, possession is not nine points of the law: it is 99.99 points of the law. There is no doubt that there has been, and there still is in my view, reason to provide more rights for tenants. They are the ones who are at a great disadvantage in the current climate of dramatic increases in values and the corresponding dramatic increases in rents.

The other significant point made by the Minister in his second reading speech was when he referred to the rights of the reasonable property-owner to manage the property in a reasonable manner. He then went on to remove from the Act those sections that talk about reasonableness, those which say that a landlord cannot act in an unreasonable manner. The Minister has taken those out of the legislation, so while in his second reading speech he talked about reasonableness he ensured that the legislation contains no reference to reasonableness.

At this stage I must say that I am not one of those who believe that every landlord is an undercover criminal, out to do the wrong thing by the tenants. There is certainly a proportion of greedy people who have no social conscience and no sense of fair play, who do not believe that tenants should have any rights. They are the types of people for whom we need laws. It is only to deal with a group of people—even though it might be a small minority—who act in an anti-social manner that legislation is needed. If everybody in a certain area acted reasonably, honestly and with due cognisance of the rights of other people, legislation in that area would not be needed. The Crimes

(Amendment) Bill that the House has just dealt with was not brought because any member of this House believes that the majority of people in the State are going to run out tomorrow and riot. But there are some groups who at certain places and times do cause public affront and start a riot. Because of that minority we need to have legislation.

I am not suggesting here that every landlord does the wrong thing. In that context, I believe also that the existing legislation will not and has not worried a reasonable landlord. Because of that I believe it should remain on the statute books. There is some suggestion also that because there is a rental crisis, the million private tenants in New South Wales should somehow continue to be denied justice. I see no reason whatever for one person or group of persons being denied fundamental justice because somehow or other it will affect an economic strategy somewhere else.

If there is a side effect, it can be rectified but there is no reason for anyone in the community to be denied natural justice. The Government's amendments will impinge upon the fair expectations of tenants in the State. No honourable member will disagree that there is a major housing crisis. Many suggestions have been made as to why that crisis has been brought about. The Government has a simplistic view of the housing crisis. It believes there is a magic, private, *laissez-faire* solution to these problems. It believes that if the rental market is freed up it will be all things to all people. Tenancy is a matter of economics. No sane person will invest in existing property or build new property and let it to someone who cannot afford to pay a reasonable rent. Those investors are not immoral; there is nothing wrong with them. It is a matter of business. The Government must intervene to ensure that the people who cannot afford to pay market rents have some means of obtaining a roof over their heads and are given justice so far as security of tenure is concerned.

The Government takes the view that any restrictions in residential tenancy legislation will force landlords out of the market and stop new investors entering the market. Studies conducted, including one carried out in January 1986 by the Department of Housing, indicate that if there is any effect, it is of a minor nature. The matters that determine whether someone becomes or remains a landlord are not affected to any real extent by rental legislation. They are affected by capital gains taxes, negative gearing, alternative forms of investment, and security. In recent times many people were affected by the stockmarket crash. The investors who believed that they would continue making both capital and revenue escalating gains from the stockmarket are now looking to the property market which they see as a viable area for investment.

Capital gains is a fairly emotive term. When the federal Government brought in capital gains and fringe benefit taxes, dire predictions were rampant. It was suggested that all types of investment would collapse; half the restaurants in Sydney would go bankrupt and the car manufacturing industry would fall apart. Figures from the Bureau of Census and Statistics indicate that more people are employed in the restaurant industry now than there were before the fringe benefits tax was introduced. The same applies to the motor vehicle industry, which has survived well, even though the tax incentive for some people to buy very expensive cars has been taken away.

Capital gains tax has not been a major factor in forcing investors out of the landlord market. Negative gearing has been reinstated. Investment in the rental property market has been for the up-market premises, as that is where the return lies. There is no return for a private investor to build a block of units for pensioners and charge them rents of 18 per cent or 20 per cent of their

pensions. The financial incentive is not there. It is crazy for the Government to suggest that there will be a tremendous upsurge in investment in residential tenanted property because of a land tax holiday. That will have no effect on the rental housing problem.

It has been suggested that there has been a dramatic decline in the amount of rental property available. I would say there has been a minor decline but not a dramatic decline in the amount of rental property available. The demand for rental accommodation has increased dramatically, which has been brought about by cultural reasons and changes in the make-up of the family unit. There are more single parent groups now than there were previously. Far more single people want their own accommodation. Because of the change in the make-up of the family unit in Australia there has been a change in demand, not a change in supply. The rental housing crisis is no different here than in other industrialized countries.

**Mr SPEAKER:** Order! The honourable member for Waverley appears to be straying substantially from the scope of the bill. The objects of the bill deal with the rights and obligations of landlords and tenants and various machinery procedures with regard to tenancy. The bill does not give scope for a far-ranging debate on housing requirements, even those housing requirements that affect the rental market. The bill is relatively specific in nature. I direct the honourable member for Waverley to return to the scope of the bill.

**Mr E. T. PAGE:** Honourable members should examine what the effect of the reformed legislation has been generally in Australia. South Australia and Victoria have introduced reforms in the tenancy area. In Victoria the reforms were introduced by a non-Labor government, but in both those States no indication has been given that the—

**Mr Schipp:** On a point of order. The major part of this legislation was enacted in 1987. This bill amends only small parts of that principal legislation, as the honourable member for Waverley said at the beginning of his address. I would suggest now that if the honourable member is going to traipse all round Australia—

**Mr Jeffery:** He is going on a world tour.

**Mr Schipp:** —maybe the world, it will open the debate for other members who spoke in the debate held last year to contribute to this debate. The honourable member was a member of the House at the time and had the opportunity then to inject his thoughts in a philosophical sense in relation to housing and rental matters pertinent to that legislation. This is restrictive legislation dealing with amendments to the principal Act.

**Mr SPEAKER:** Order! I uphold the point of order taken by the Minister for Housing, and further indicate to the honourable member for Waverley that this is an amending bill. The honourable member may speak only to the amendments in the bill and may not discuss the Residential Tenancies Act in general. The honourable member must confine his remarks to the scope of the bill; if he cannot do so, I shall ask him to resume his seat. He does not have leave to roam freely over the whole question of rental tenancies.

**Mr E. T. PAGE:** I have mentioned one aspect of the amendments that is abhorrent and is worth repeating. I refer to the elimination of the suggestion of people having to be reasonable. That is an indictment on the Government to encourage people, who are already in a strong position, to act in an unreasonable manner. That would be immoral and unsociable behaviour by a democratic government to tell a number of landlords who are dealing with a

million tenants in New South Wales that they have the Government imprimatur to act in an unreasonable fashion. That gives the background of how the Government views justice to tenants in New South Wales.

The next matter to which I turn my attention concerns the role of the tribunal. Under the existing legislation the tribunal has two roles. First, the tribunal must make determinations on breaches and, second, arbitrate disputes. These amendments take from the tribunal the power to resolve disputes. In a complex urban society human relations generally can be difficult. Even in the best of circumstances there can be conflicts between landlords and tenants without there being necessarily any great wrong on either side. It seems reasonable that there should be a tribunal, an objective body standing apart from the dispute, able to make some sort of adjudication so that the dispute does not become a breach. It is humane, the very basis on which our society is structured. We do not try to encourage breaches to develop, we try to nip them in the bud. It is more sensible, more humane and more economical. I cannot understand why the Government would remove or limit the power of the tribunal to arbitrate disputes.

Rather meanly, the Government will require that only one copy of a tenancy agreement need be given. If there is more than one tenant, each cannot have a copy of the agreement. That is quite mean. I cannot understand why someone cannot copy a piece of paper. It is reasonable that every tenant should have a copy of what he or she has signed. There is also the matter of the deletion of the requirement that the owner notify the tenant in writing of his intention to inspect the premises. A large proportion of tenants are in vulnerable social circumstances, perhaps single-parent families or people from abused backgrounds who do not feel secure in society. These people are to be placed in a position where their privacy can be encroached upon, without written notice being given. That is a backward step.

There is also the matter of not giving the owner's name to the tenant. The tenant's name is known to the owner but when the owner appoints an agent his identity does not have to be given to the tenant. A few years ago, in Shoalhaven, I believe, there was a classic case of this when Bob Harrison was elected during a by-election as the member for Kiama. An estate agent there raised someone's rent without the owner's knowledge. The breadwinner of the family was unemployed, and complained to the press. The owner said he did not even know the rent was being increased. He said that the estate agent had not told him about it and that he was quite content with the rent as it was. He said he did not want to raise that family's rent. The rent stayed as it was. Later, it turned out that the estate agent was the Liberal Party candidate. This was a specific instance where the estate agent certainly was not acting on the instructions of the owner.

In an electorate that has probably the highest proportion of private tenants in this State I get complaints from tenants about the unco-operative activities of some estate agents. My experience leads me to believe that these problems in many cases are due to unco-operative estate agents who do not carry out their responsibility. The owner may well be unaware of any problem at the time. It is reasonable that the owner's name and address should be available to the tenant so that that person can be contacted when required. There has been a cutback in the amount that can be expended by the tenant for urgent repairs, from \$800 to \$500. In May last year \$800 may have been worth about \$100 more than it would be today. The inflationary spiral is reducing its value. To cut it down by another \$200, and by including it in the Act, it is unlikely in the next few years that it will be amended. The value of

the repairs that can be carried out by tenants will get smaller and smaller. I will be moving an amendment that that should remain at \$800.

Another matter relates to the payment of rent in advance. The previous legislation suggested that if the rent was more than \$300 a week the owner would ask for four weeks' rent in advance. If the rent was under \$300 a week the advance was for two weeks. That has been cut back to \$250. Bearing in mind the inflation rate, that further diminishes the figure, which will not be adjusted in the short term. In the way in which rents are rising now it will not be too long before most tenants will be required to put up four weeks' rent in advance. If the rent is \$251 a week, by the time there is a month's rent in advance, four weeks' bond, lease preparation, gas, electricity and phone, the tenant is up for something like \$2,300 to get into a unit. To that must be added the costs of moving. It is a rather large imposition on a tenant to try to get into new premises. And where there is a lack of security of tenure and where the tenant may be forced to move on reasonably regularly this is a tremendous financial drain on people who are already behind the eight-ball financially. I intend to move that the rent in advance be a maximum of two weeks, regardless of what that may be. There is also the problem with the artificial level of \$250 that if the rent gets up near the figure, perhaps to \$230, the owner or agent might wish to try for the extra \$20. The cost goes up artificially and the tenant loses again. That is something that ought to be looked at in these amendments.

Another point of concern is the notice to be issued when rent is 14 days in arrears. That notice can be given for seven days' vacation of premises, but I believe the existing 14-day period of notice should remain. Something that always concerns me is the matter of investigators. It is obvious that there must be some people who are involved with the enforcement of the legislation but I am generally dissatisfied with the powers of investigators, and particularly so in this case. I realize they are covered in the existing legislation and in the Fair Trading Act but I believe also that there are some amendments that will improve the situation so far as the tenant is concerned. Proposed section 119B (4) reveals that a person is to be excused from providing information on the basis that it may tend to incriminate that person. Where the group in a unit of accommodation might be a family the husband might validly say he would not give any information because that could incriminate him, but the wife could not say that. Her position is that she can provide that information, which is possibly damaging to her family unit, or she herself could be guilty of an offence. I believe that that provision should apply to all in that tenancy situation so that no particular member is disadvantaged *vis-a-vis* another. Confusion arises with respect to subsection (5) of proposed section 119B, which refers to people authorized to enter premises. The term "part of any premises" is used, which may be interpreted to mean, where a shop-dwelling is involved, that an investigator may enter the shop premises but not the residential part of the premises.

**Mr Schipp:** The subsection explains that. The honourable member should read it.

**Mr E. T. PAGE:** As well as being a slow learner the Minister does not listen. It should be made clear that the provision applies to the entire residential premises, so that tenants are not placed at a disadvantage.

**Mr Schipp:** Has the honourable member read the Act?

**Mr E. T. PAGE:** The Minister asks whether I have read the Act, as though no Act of Parliament has ever been challenged in a court of law. Does he suggest that because a government introduces legislation it will never be

challenged in the courts or require a determination by a judge that the Act means what the Government intended it to mean? I do not disagree with the provision; I am saying it should be rewritten to avoid confusion. Surely that would not be too difficult a task. I have outlined the difficulties as I see them with respect to the amendments. On-the-spot fines will only encourage people to go to court. In relation to other legislation on-the-spot fines have proved useful, when people are willing to concede their guilt and pay the fine imposed. However, on-the-spot fines need not be paid; they may be challenged by one's exercising one's legal rights. I see no reason for any amendment in this regard.

I commend the Minister for accepting a significant portion of the former Government's legislation in this regard. When in opposition he did not accept it. I am happy that it meets with his approval. That is a credit for his learning curve. The Act should be retained as it is, and I shall be moving a series of amendments in Committee to ensure its retention. At a time when an inquiry into homelessness is being conducted the Minister, unfortunately, is selling off vast tracts of public land. Those associated with public housing are calling the Minister "sell-off Schipp". Now millions of tenants throughout New South Wales will call him "sell-out Schipp".

**Mr CHAPPELL** (Northern Tablelands) [4.53]: Labor laboured for 10 years to cook up a new Residential Tenancies Act but came up with a watery, jelly Act that it was not willing to serve up to the people of New South Wales. In the dying stages of the twentieth century affairs between landlords and tenants are still being administered by an Act written in 1899. The previous Government was not able to get it right and did not feel sufficiently secure about its own legislation to proclaim it. This Minister and this Government have been in office for but a few months and already a bill that will work has been introduced. This proposed legislation will satisfy the vast majority of the requirements of landlords and tenants. It is fair. It is reasonable. It is balanced. It has an inbuilt assessment factor that will ensure all minor necessary alterations are identified and implemented as quickly as possible to ensure that the bill is even more beneficial.

This bill is fair and reasonable. It seeks to put the landlord and the tenant on an equal footing. There is no better way of ensuring a reasonable relationship between landlords and tenants in this State than that both parties be on equal footing. When people are on uneven ground they tend to protect their interests and go overboard when fighting among themselves; that leads to specious cases being put before tribunals, agencies, and courts in an attempt to seek redress. In the crisis that faces housing at present in New South Wales the essential ingredient is balance. If there is too much favour for the tenant at the expense of the landlord, the private rental market will vanish before our eyes. With too much favouring of the landlord to the detriment of the tenant, already hard-pressed tenants will simply be unable to cope. There must be a delicate balance between competing interests, which this bill will achieve. Neither party should ever expect to be completely satisfied on all points, but the Minister, I believe, has produced a package that balances fairly the requirements, interests and commercial realities of both parties in a way that will give stability, incentive, and a reasonable adjudication of the interests of all in the New South Wales residential rental market.

In his second reading speech the Minister said that because private renters have, for 10 years or more, been deprived of long-overdue reform, he did not intend to delay matters any further in the vain hope of finding perfect legislation. We all know that the perfect product really does not exist. But this Act should be put in place now. It will be reviewed annually by the structure

that is build into the mechanism to ensure that it is updated in accordance with the needs of the market. The Act introduced by the former Labor Government was seen throughout the industry as a denial of the rights of the vast majority of property-owners to fairly and reasonably manage and control their own properties. One should not get too carried away with the notion that when problems arise, as they do from time to time between tenants and landlords, the landlord is always at fault. That is simply not the case. Landlords are entitled to protect their investments. They will not retain their investments in rental property unless they have some rights and their investments are protected. Those who live in the properties as tenants have rights also; but they are protected under the Act. Should the rights of tenants become paramount over the interests of landlords, landlords will leave the market.

This amending legislation shifts responsibility for these proposals from the Department of Consumer Affairs to the Department of Housing, where they belong. Housing matters should be determined by the Department of Housing and the Minister for Housing, not interpreted by the Department of Consumer Affairs. Housing will be returned to the camp to which it belongs. The principal objective of the bill is to retain the general direction of the Residential Tenancies Act 1987, which was to provide basic information about the law as between landlords and tenants, a standard set of rights and obligations for landlords and tenants, a standard residential tenancy agreement, an independent, accessible and speedy tribunal to turn the rights and obligations of both parties into fact, and to extend the residential landlord and tenant relationship to include, for the first time, permanent residents of caravan parks.

The amendments seek to remove from the legislation presented by the previous Government a number of existing provisions considered to be too extreme. Those provisions do not reflect a proper balance between the interests of landlords and tenants. The repeal of the provisions transferring the functions of the Rent Controller and the Fair Rents Board will ensure there is no confusion by applicants about the role of the tribunal and no perception that this is a rent control mechanism. The Residential Tenancies (Amendment) Bill seeks to amend the 1987 Act, which was assented to on 12th May, 1987, but never proclaimed. The 1987 Act was introduced to replace the general landlord and tenant law and the Landlord and Tenant Act 1899. The amendments sought are numerous and I shall deal with them one by one to highlight their commonsense nature and the absurdity of some of the suggestions made by the honourable member for Waverley in his contribution.

Section 12 of the Act deals with the costs of preparation of residential tenancy agreements. The bill proposes that those costs be pegged at a ceiling of \$25, which is a reasonable amount in anyone's view. Any tenant seeking the protection of an agreement must pay for it. It is not unreasonable that \$25 should be the upper limit of the amount that a tenant should be required to pay. A rental agreement gives a tenant significant rights and it is proper, and in accordance with longstanding practice in residential tenancies and other areas, that an applicant for an agreement must pay for it. Section 16 of the Act deals with applications relating to a dispute or a breach of a residential tenancy agreement. The Government believes that referring a dispute to the tribunal is simply another mechanism for cluttering up the work of the tribunal. The serious disputes arising between landlords and tenants are breaches of agreements, and they should be dealt with between parties and the tribunal. Any serious dispute between a landlord and a tenant becomes a breach, and those matters will be dealt with under the amendments to section 16 (1).

Section 17 (1) will be amended to provide that only one copy of a residential tenancy agreement need be given to a tenant. With a ceiling of \$25 on the cost of producing an agreement, it is absurd to suggest that unlimited copies, containing signatories from different parties, be given to each party to an agreement. If people are living in the property as tenants, they will have access to the tenancy agreement. If a resident wants a personal copy, it is a simple matter to photocopy the agreement. Section 24 of the Act deals with a landlord's access to residential premises and the rights of nominated tradespeople. Paragraphs (a), (b) and (c) of section 24 (1) will be amended to provide that nominated tradespeople will have access without written consent.

It is often difficult, time-consuming, and confusing to insist on written consent for a person to enter a rented property. Breaches of the requirement to seek consent to enter a property are adequately provided for, with appropriate penalties. Consent to enter is the critical requirement, and that will be protected. The requirement to obtain written consent will not work in most cases. When repairs are needed and access must be gained to the property, it is ridiculous to require written consent. Appropriate sanctions for abuse of the privilege of entering a property without written consent are provided by a fine of \$500.

The Residential Tenancies Act 1987 provides in section 27 that the landlord must not unreasonably withhold or refuse consent for alterations, additions and renovations to the premises. The honourable member for Waverley referred to unreasonable refusal. Rental properties are the properties of the landlord. Though occupied for the time being by a tenant, it is the landlord's responsibility to protect and maintain the property in the condition he chooses. It is not for a temporary party to an agreement to alter without consent, whether reasonable or otherwise, the condition of the property. Locks and other security devices are covered in section 29, but a landlord is entitled to offer his property on the rental market in the condition he wishes.

Section 28 (1), dealing with urgent repairs, will be amended to provide for a decrease from \$800 to \$500 in the amount that a tenant may be reimbursed for urgent repairs. The honourable member for Waverley conveniently forgot to mention some aspects of this provision. Landlords will have the power to nominate tradespeople who will carry out normal maintenance. If a tenant approaches nominated tradespeople and arranges for urgent repairs to be done, the account for that work will be the responsibility of the landlord. The tenant will not be out of pocket and he will be relieved of any obligation to pay. Nothing could be fairer than that. If a nominated tradesperson, acceptable to the landlord or his agent, is available, the tenant can arrange for urgent repairs to be carried out up to \$500, and the tradesperson will seek payment of his account from the landlord.

Proposed new section 32 (2A) provides that a landlord is not required to give the tenant notice of the landlord's residential address. It is absurd that if a landlord chooses to engage an agent, he must also declare his residential address. An agent is authorized to act in the name of, and with the authority of, a landlord. The only thing that a tenant needs to know for the redressing of a problem, or for the carrying out of repairs or renegotiating any part of the tenancy agreement, is the name and address of the agent. That is the appropriate information to be included in the rental agreement. Section 33 of the Act deals with the right to assign rights or to sublet. The proposed amendments to this section cover unreasonable refusal to consent to an assignment or a subletting. Any reasonable person would agree that a landlord is entitled to determine who may or may not rent his property. It is not acceptable that tenants can arrange subletting of a rented property. Such a provision would strike fear into the heart

of any landlord. The amendment to section 33 will ensure that a landlord retains complete control over his premises and over who rents them, without subjecting the tenant to any unnecessary disadvantage.

Section 38 (1) (b) will be amended to reduce the prescribed rent from \$300 to \$250 as the differential between two weeks' rent in advance and four weeks' rent in advance. That period will be extended to one month as so many tenancy agreements are now arranged on a monthly basis. This change equates with the provisions of the rental bonds legislation. It is a procedural measure. Section 48 (f) will be amended to remove work done, or intended to be done, by a tenant from consideration in determining an application for a reduction in rent. It is absurd that a tenant should approach the tribunal for a rent reduction on the ground that he has arranged that, if he carries out certain work on the premises, his rent will be reduced. How many times could that arrangement be breached, and to what extent would that lead to further disputation between landlord and tenant? How much greater would be the workload of the tribunal?

Section 49 of the bill deals with backdating orders for excessive rents, and provides that if the tribunal agrees to a reduction of rent, reduction begins from the time of the changed circumstances, that is, the elimination of a service or facility, rather than from the time of the application. That amendment will be welcomed by any tenant seeking redress by way of rental reduction. Section 57 deals with breach of rental arrears, by which the time for giving notice has been changed from 14 days to seven days. At present five weeks elapses from the time of non-payment of rent until the property is delivered up to the landlord. In these days of high rents that is an excessive period. All honourable members know of circumstances where people have offended many times by non-payment of rent. Section 57 will provide protection to the landlord whereby after one month rather than five weeks he will have delivered up his property and be enabled to again place it on the rental market. That amendment reflects the present legislative practice. The same comment applies to section 55 with the suspension of termination orders; once again in that section the present practice will be maintained, rather than following the given practice that Labor adopted in its 1987 legislation.

The tenancy commissioner will be responsible to the Minister for Housing rather than to the Minister responsible for consumer affairs. That is a major step forward, which will allow all housing matters to be dealt with under the one roof. That matter will not be left again for 89 years before appropriate amendments are made. Each year the commissioner will prepare a report for the Minister. That provision is necessary in order to keep the legislation up to date.

Concern about investigators was raised by the honourable member for Waverley. He waffled on about section 119. However, the honourable member failed to mention that that measure was taken directly from Labor's Residential Tenancies Tribunal Act, which came into operation on 1st October, 1986. So, the Government has adopted that provision in legislation introduced by the previous Government. I believe this legislation will be accepted widely by landlords and tenants as appropriate to take them into the next century.

**Ms NORI (McKell) [5.13]:** The 1899 Landlord and Tenant Act was antiquated legislation biased heavily in favour of landlords. In 1987 the Labor Government introduced the Residential Tenancies Act in an endeavour to modernize tenancy arrangements. That Act was a more realistic reflection of the relationship between landlord and tenant. Unfortunately this legislation

seeks to water down some of the reforms embodied in the Residential Tenancies Act by tilting the balance back in favour of landlords. The past 18 months have seen escalating rents and a tightening of the rental market. That has been to the detriment of tenants and people seeking rental accommodation. It has exacerbated also discrimination against certain groups within the rental market. I instance disabled people, those with children, especially single parents, as well as Aborigines, migrants and the elderly.

The Government claims that this amending bill will restore the balance of rights and obligations between landlords and tenants. However, it is heavily weighted in favour of landlords. The Government suggests that it will restore landlord interest in the market and encourage greater investment, thereby creating more rental housing. There is no doubt that additional rental accommodation is necessary. However, more low-cost accommodation that most people can afford is required. That type of accommodation must not be offered on such terms and conditions as would make tenants vulnerable to the whims and fancies of the private landlords.

The first amendment with which I disagree strongly is proposed new section 16 (1), which provides that a landlord or tenant can, not later than 30 days after becoming aware of a breach, apply to the tribunal for an order in respect of the breach. The effect of that amendment will be to remove the tribunal's function as a mediator in disputes before breaches have occurred. I can imagine instances in which tenants will be virtually forced to commit a breach in order to obtain standing before the tribunal. For instance, if a tenant foresees a maintenance problem it may be in both his and the landlord's interest to remedy the problem before the breach occurs. However, a lazy or difficult landlord may elect to ignore the tenant's warnings. If the tenant is not willing to wait until the breach has occurred—for fear of its severely disadvantaging him—he may be forced to commit a breach, such as withholding rent, simply to get before the tribunal.

Honourable members know that landlord and tenant relations can be difficult, often fraught with disagreement. However, quite often mediation and negotiation are a sensible means of averting considerable delays and trouble. I reject the Government's view that the mediation function would waste the tribunal's time with frivolous and unnecessary disputes. It seems to me that the rationale of the tribunal was to deliver quick, easy and cheap access to dispute resolution. It is important that the jurisdiction of the tribunal encompass the totality of landlord and tenant relationships.

I believe the most callous and unconscionable measure in this bill is proposed new section 57 (2), by which the period of notice for a breach of agreement will be reduced. I believe it is most unfair to reduce the capacity of a tenant to remedy rent arrears. I shall cite an example. Typically the most disadvantaged tenant is one who is totally dependent on Government benefits. Unfortunately pension payments by the Department of Social Security can and do go astray. Some tenants experience inordinate delays, through no fault of their own, waiting to receive their benefits. Simple errors can take much more than seven days to remedy. If a tenant is in dispute with the Department of Social Security, and is waiting for an appeal to be heard by the Social Securities Appeal Tribunal, he can be without income for some weeks. That person would be trapped by this clause, and is the very person the legislation should protect. This legislation is not about depriving someone of a minor appliance or creating an inconvenience. It could possibly deprive someone of the roof over his head. Has the Minister any idea what it would be like to be left dispossessed and destitute?

**Mr Schipp:** If the honourable member were familiar with the legislation, she would not make those comments.

**Ms NORI:** I do understand the legislation. The bill will give people little time to organize their finances. Has the Minister any idea what it would be like to have young children, to be on unemployment benefits, and to be put on the street without a chance to sort out rent arrears? That could be the straw that breaks the camel's back. Some families might never recover from such tragic circumstances. Landlords have an undoubted right to collect rent. However, we do not live in a perfect world and sometimes we must make choices. If it came to a choice between the landlord receiving rent, or putting a struggling family or pensioner on the street with hardly a chance to save themselves, I know who I would try to help. I am not talking about a vexatious or difficult tenant. I am talking about cases involving genuine hardship and difficulties. People in those circumstances deserve support before they are forced down a path from which they may never recover.

I am concerned about proposed new section 65 (1A) of the bill, which provides that the tribunal may, as a condition of the suspension of the operation of an order for possession, require the tenant to pay to the landlord an occupation fee. I am particularly concerned about the impact that that measure may have on tenants who are endeavouring to obtain priority housing from the Department of Housing. It has been suggested to me that if a person is paying an occupation fee, in the strict sense he has not been evicted, but is not a tenant either. That may create problems for his obtaining priority housing. I believe that is a technical problem.

**Mr Schipp:** Does the honourable member approve of queue jumping?

**Ms NORI:** This has nothing to do with queue jumping. Some people find themselves in circumstances where they must apply for priority housing—or had not the Minister noticed? I am suggesting that in those circumstances the Minister should direct his departmental officers to show sympathy for those persons, and not allow the simple technicality to affect their eligibility for priority housing. I am surprised that the Minister would refer to applicants for priority housing as queue jumpers. If the Minister does not understand the need for priority housing and why people apply for it, he should not be the Minister. I thought more highly of the Minister than that.

**Mr Schipp:** This is your little blurb for the afternoon.

**Ms NORI:** No, it is not my little blurb for the afternoon. The Minister has disgraced himself. Section 32, by adding a provision that removes the requirement to give the tenant notice of a landlord's address if the business address of the landlord's agent has been provided, seems unfair. After all, the tenant has to provide references and many personal details, but the landlord is not even required to provide his or her address. This leaves the tenant in a difficult position, particularly if the agent is incompetent or unco-operative. Certainly the tenant can approach the Council of Auctioneers and Agents if he or she feels aggrieved, but this is unsatisfactory. It could take a long time to sort out the situation and in many instances the landlord would probably be horrified at what was being done in his or her name. Direct access to the landlord could prevent many problems, especially if the agent has been withholding information from the landlord. If we are dealing with a difficult situation requiring a major decision by the landlord or his or her agent, surely if the tenant could make direct contact with the landlord, the landlord may be more willing to make that major decision expeditiously and that would

obviously be to the advantage of the tenant. In my view the removal of this provision will mean that the tenant becomes the meat in the sandwich.

The proposed amendment of section 38 (3) is a retrograde step. It will reduce the cut-off point below which the landlord can only charge two weeks' rent in advance. The previous Government set the limit at \$300 a week rent. Previously the landlord would have been entitled to ask for four weeks' rent in advance on any premises for which the rent was \$300 or more. The reduction of the cut-off point to \$250 will mean that significantly more people will be compelled to pay the additional rent in advance. As honourable members heard from the honourable member for Waverley, this can be an inordinate burden on people trying to rent on the private rental market. In March this year the average rent for a three-bedroom home in the suburbs was \$270 a week, and the equivalent in the inner city would be \$295 a week. It can thus be seen that most renters will be trapped by this inadequate cut-off point. As the original level of \$300 a week was set some time ago, I consider that the Government should have been looking at increasing the limit, rather than decreasing it.

Aside from the reservations and concerns that I have expressed, my personal view is that the Act should also include protection for boarding-house tenants. They are the most vulnerable tenants in our community. They are already at the lowest end of the market. There are no alternatives for them. If they miss out on their boarding-house accommodation, it is the street for them. I hope that one day the Government will provide protection for this kind of tenant. The other point I wish to make is that I would have preferred to have the benefit of the report of the Inquiry into Inner City Homelessness to see whether it contained any information that would have impacted on the bill. I am glad to learn that the Government intends to monitor the operation of the legislation regularly and I hope it will have the guts and the honesty to make appropriate amendments if it finds the the measure is not working and that tenants are not getting a fair go. I know that the Government wants to ensure an increase in rental housing. I hope the bill will assist in that, though I have my doubts. I conclude by saying I would be much more impressed with the Minister's concern for providing more rental stock if he ceased selling off public housing in the inner city. I take this opportunity to challenge the Minister to prove statistically that the Government's sell-offs in the inner city will result in more houses elsewhere.

**Mr MERTON (Carlingford) [5.24]:** This amending bill is an attempt by the Government to introduce realistic legislation to regulate the rights of tenants and landlords, which have remained basically unchanged since 1899. The previous Government introduced similar legislation last year, but it was never proclaimed. We are making some amendments to that legislation, but the bill is substantially the same as the legislation that the previous Government introduced. For this reason I find it difficult to accept some of the comments made by members of the Opposition who have spoken in the debate. I shall analyse the changes that the Government proposes. We propose that the itemized cost of obtaining a lease will be \$25. Under the legislation which has been in existence since 1899 the cost was \$62. Our amendment will result in a substantial saving. The Labor Government did not take steps to reduce that cost from \$62 to \$25.

I turn to the powers of the tribunal, which was set up by the Labor Government in 1986. We do not intend to make significant changes to the powers of that tribunal. The Government is seeking to take cases out of the magistrate's courts and have them heard before the tribunal, where they will be dealt with quickly, cheaply and—we believe—more efficiently. Another

matter dealt with is copies of tenants' agreements. The House has been told that in the case of multiple tenancies there will be only one copy. The reality of the situation is that the Registrar General issues only one title deed to any number of people whose names appear on that deed. We take the view that the lease is the tenants' title deed and that one copy is adequate. Good tenants who look after the houses will also look after their leases in a similar manner.

The legislation we have introduced deals with access to the premises. No longer will a tradesman have to go to the landlord to get written authority to enter the premises and then go to the job. This legislation will enable the tradesman to go straight to the job without wasting someone's time. Of course, time is money and ultimately someone has to pay the bill. In respect of additions or alterations to the premises, we believe that fundamentally the premises belong to the lessor—the landlord. He is the person whose money is tied up in the premises. It is true that a tenant may also have an investment in those premises. If it comes to the point of someone making a decision about what repairs or alterations are to be made to the premises, it is basically the landlord's choice and decision. We do not believe that any landlord should be subjected to unnecessary proceedings before the tribunal in this respect.

When we come to the question of assignment of a lease, the landlord is entitled to say who the tenant should be. This is a fundamental right that goes with ownership of the premises. The House has been met with the cry: "What about the tenant who for some reason wants to get out of the lease; what happens then? Does it mean that the tenant is responsible for the lease for the duration of the lease?" The answer is simply, no; if the tenant vacates the premises, under the new legislation as well as legislation passed by the previous Government, the lessor or landlord has an obligation to mitigate the losses and has to seek a new tenant. If the landlord wants to take proceedings to recover rent for the balance of the term when the tenant has not been living there, the onus is on the landlord to establish that he took reasonable steps to obtain an alternative tenant.

Mention was made of urgent repairs. If the roof is leaking the legislation will not mean that the tenant has to telephone Monier Re-Roofing Services to get them out to give a quote for a new roof. It will mean that the roof has to be fixed as a matter of urgency. That is why the legislation stipulates an amount of \$500 rather than \$800. The Government has made it mandatory for landlords to supply a list of trades people whom the tenant has to contact. No one doubts the integrity or the honesty of landlords and tenants in an ideal world.

**Mr SPEAKER:** Order! Pursuant to sessional orders, the business of the House is now interrupted for the noting of private members' statements.

**PRIVATE MEMBERS' STATEMENTS****NRMA INSURANCE LIMITED**

**Mr A. S. AQUILINA (Mulgoa) [5.30]:** I am concerned about the way National Roads and Motorists' Association Insurance Limited has treated constituents of mine who have insurance policies with that company. Five families living in St Marys have been refused insurance compensation by the NRMA for inundation of their homes earlier this year. I was surprised to hear that the NRMA would not compensate its policyholders, as other insurance companies have paid their policyholders who sustained damage at the same time. The NRMA has ill-treated a number of other constituents in my electorate, as well as other people in the State. I give the example of Mr Gary Brown, whose claim for damages sustained to his car in an accident was refused by the NRMA. The car had been insured for an amount of \$12,000; it was written off in a road accident. The NRMA arranged to have the car repaired at a cost of \$10,000. Mr Brown was dissatisfied with the workmanship of the repairs.

On returning the vehicle to the NRMA technical services it was agreed that the chassis of the vehicle was bent. Mr Brown went to a Toyota assessor who valued the car at \$4,000. The NRMA advised Mr Brown that it would insure the car for \$7,000, though the original cost of the car was \$12,000. As the NRMA had arranged for the repairs to be carried out, in my view it should have insured the vehicle for at least \$10,000. Mr Brown is reluctant to insure his car with the NRMA, but that organization has advised him that if this was not done they would take the car away. The car was given a technical inspection at Dee Why and was assessed as a business vehicle only and not for domestic use. Mr Brown suspects there was a cover-up by the NRMA.

**Mr Phillips:** Has the honourable member checked with the NRMA?

**Mr A. S. AQUILINA:** That has been done. Mr Brown claims that the NRMA stands for "Nobody has Ripped Off More Australians." I am concerned, as other instances have been reported to the news media and to this House. My colleague the honourable member for Auburn mentioned the NRMA's treatment of Sister Kate of St Peter Chanel convent at Berala, but I will not discuss that matter. The NRMA has a lot to answer for. The Government should introduce legislation to cover some common form of insurance policy. The case of the five families in my electorate who have been refused compensation by the NRMA is an example of the difference between the treatment of policyholders' claims by the NRMA and other insurance companies. The Government should examine that matter. I shall make suggestions to the relevant Minister about this matter in the future. A spokesman for the Parramatta Legal Aid centre has said that his centre receives many complaints concerning the NRMA. Almost weekly a person seeks legal aid to take the NRMA to court. That is of concern, particularly as the NRMA is a large organization in the State, and in the past has shown concern for its members.

**Mr SCHIPP (Wagga Wagga), Minister for Housing [5.35]:** I am sure the appropriate Minister will examine this matter. However, I am concerned that Opposition members continually use private members' statements to criticize companies. I look forward to the honourable member's input into the Australian Labor Party's policy on this matter. To date the NRMA has been used as a whipping boy by members of the Opposition. It is a good headliner; there is no doubt about that. I am not saying that in a big organization such as the NRMA all matters are dealt with properly. Unless the honourable member has made

personal representations to the NRMA, I suggest that he handles the matter differently. I have intervened on behalf of my constituents and I have been able to obtain results from the NRMA.

A more responsible approach should be taken by the honourable member—and I know the honourable member is responsible, he having raised many legitimate issues in private members' statements—to ensure a wrong impression is not created that all appropriate mechanisms have been investigated. I am sure the responsible Minister and the Government will examine the issue. The Government is not in the business of overregulating and creating unnecessary legislation, but steps must be taken by the Government to correct inadequacies of practices by companies. The Government will see what can be done but the honourable member should use his influence within his own party to formulate appropriate policy.

### CHRONIC FATIGUE SYNDROME

**Mr HARTCHER** (Gosford) [5.36]: Only recently has the illness chronic fatigue syndrome been identified. It would appear to be a lifestyle-related illness and is prevalent throughout the State. I express concern on behalf of the people of Gosford arising from recent studies which show high toxic levels among a number of chronic fatigue sufferers on the Central Coast, which may be related to toxic chlorine by-products in tap-water. This issue has been raised in the federal Parliament and it is appropriate that it be raised also in this House. Blood samples taken from 41 Central Coast residents who are acute chronic fatigue sufferers show a high level of toxic clinical poisoning. These tests were ordered to be conducted by Dr Mark Donohoe, a general practitioner at Erina Heights. Dr Donohoe is well known for his skills in investigative and diagnostic medicine, and in the past has had problems with the Medicare bureaucracy because of this issue.

The result of the tests could show either a local problem on the Central Coast or they could pinpoint a more widespread national problem. The blood samples taken by Dr Donohoe, which were tested in a high-tech laboratory in the United States of America, were found in some cases to contain 20 times the United States average for four toxic chemicals. This analysis is even more significant when one realizes that CFS sufferers are only too aware of their ailment and avoid the use of or exposure to chemicals. Throughout the State of New South Wales it is estimated that approximately 16 000 people suffer from chronic fatigue syndrome. The symptoms are persistent exhaustion, joint pains, headaches and memory loss. Affected persons have difficulty concentrating. Whether the high level of chemicals can be traced to tap-water is not really known. It is interesting to note that on 18th October the Minister for Environment made a statement about a water watch program.

The program started with an analysis of water quality in a most important place, this House. Yet the program launched by the Minister is presently confined to metropolitan Sydney and does not cover areas in country water and sewerage schemes, such as at Gosford. The four chemicals referred to were DDT, hexachlorobenzene or HCB, chloroform, and dichloromethane, which is found in degreasers and solvents. According to the study, the average level of HCB found in Americans was only 0.3 parts per billion yet the Australian study showed an average between 1.25 and 3 parts per billion, which is four times and 10 times the American average.

Hexachlorobenzene is a known carcinogen and mutagen and was used extensively as a crop fungicide until the 1970s when it was phased out. DDT, a non-degradable pesticide, has also been widely banned. Chloroform is another carcinogen. HCB is produced in considerable quantities as a waste by-product of some chlorinated solvents and pesticides and could easily enter the food chain. Dr Donohoe said that none of the 41 Australians tested had had acute industrial or agricultural exposure to HCB. These are the facts as presently known. They are worthy of more investigation to find whether this is a problem located only in my electorate or whether it may be statewide. I request the State Minister for Health to join his federal colleague in investigating this matter, which is so important to the health of the people of Gosford and, indeed, to all the people of this State.

**Mr COLLINS** (Middle Harbour), Minister for Health and Minister for Arts [5.41]: This matter is obviously of considerable concern to the honourable member for Gosford and to his constituents. It relates to an investigation by Dr Mark Donohoe of an association between trace levels of various chemicals in the blood and the resulting chronic fatigue syndrome, known shortly as CFS. Dr Donohoe, a general medical practitioner, subscribes to the view that trace levels—parts per billion—of DDT, hexachlorobenzene, chloroform and dichloromethane are in some way linked to the chronic fatigue syndrome. According to a toxicologist of the National Health and Medical Research Council, Dr Donohoe and others have no evidence of a scientific nature to support this view, which is purely speculative. A medical fringe group, the Environmental Medicine Society, which eschews traditional medicine and science, blames many illnesses on “chemicals”. In the past this group has put forward views similar to those of Dr Donohoe.

My advice from the department at this time is that according to the National Health and Medical Research Council toxicologist no request has been received from my federal counterpart, Dr Blewett, to investigate the matter. In any case, according to that source, there is little to investigate. The blood levels being found are well below any level whereby a logical activity has been shown to occur in laboratory animal tests. Blood levels are consistent with typical exposures in the Australian setting and there is no scientific evidence from which conclusions can be reached regarding the question of harm. However, I appreciate the need felt by the honourable member for Gosford to bring these allegations to the attention of the House and to my attention as Minister for Health. I assure him and the House that I will continue to monitor these allegations and, indeed, any subsequent information that is brought to light, and will keep him informed accordingly.

### NARELLAN TRAFFIC

**Mr PRIMROSE** (Camden) [5.43]: A number of traffic matters cause deep concern to my constituents in the Narellan area. These matters were not adequately addressed by the last Government and I am now asking the new Government to take urgent but remedial action. For a considerable time many Narellan residents, including Mr Paul Brown, Mr Marcel Schondelmaier, Mr Des Berry and others, have been pointing out the problems to Ministers of all political hues and colours but little has been done. The first and most vital concern is the need for traffic control lights to be placed at the intersection of Richardson Road and Camden Valley Way, the old Hume Highway. Turning signal lights into Grahams Hill Road and Richardson Road should be installed at the same time, and the turning bays at the intersection need to be extended to cope with the ever-increasing volume of traffic.

Initially, there were five major entrances into Narellan from Camden Valley Way but Department of Main Roads construction and the upgrading of the Camden Valley Way as a throughroad have effectively closed three of these entrances. The intersection of Richardson Road is thus one of only two main points for ingress and egress into the bulk of the Narellan residential area. That intersection has Narellan Public School on one corner, Macarthur Anglican High School on another, the local hotel on the third corner and a major truck depot. The intersection is also the major entrance to the Narellan industrial estate. Virtually all traffic that travels through Narellan passes through this intersection. The need for traffic control lights is obvious.

The other major intersection and entrance to the Narellan residential area is where Camden Valley Way meets Somerset Avenue. As traffic volumes continue to increase the absence of traffic control lights at this intersection is putting the lives of my constituents in great jeopardy. I also ask the Minister again to take action about the provision of on-ramps and off-ramps where the Camden bypass road crosses Richardson Road. This would provide a ready and much needed alternative access to and from Narellan, seen by residents and Camden municipal council as an essential element for local traffic control and safety, particularly in view of the rapid development of large new housing areas and the consequent traffic generation in Narellan. Design work for these ramps should commence immediately and construction should take place as a high priority.

I also ask the Minister to look again at the implementation of the extension of Elyard Street from Queen Street to Somerset Avenue to improve internal access and to relieve traffic flows, as adopted by Camden municipal council in the council's planning proposals for the area. Because of policies of both the last Government and the present, the population of the Narellan area is set to explode. The Government has a responsibility to take action to alleviate the serious problems being experienced by long-term and new residents in Narellan that result from these policies. I ask that the Minister urgently consider all these matters and that he meet a deputation of local residents to be organized through the Narellan-Camden neighbourhood centre to hear at firsthand of the problems I have outlined.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [5.47]: It is pleasing to note that the honourable member has recognized the legacy of neglect left to the new Government in dealing with traffic matters. The Greiner Government has allocated record funds for roads and allied traffic matters, \$1.1 million. This is despite cutbacks from Canberra. I do not want to boast about that, but it is something that ought to be repeated. The Greiner Government has made an absolute commitment to roads to try to come to grips with what has happened. I do not know whether it is appropriate in members' statements to get a grab bag of issues from within an electorate, put them under an umbrella of traffic issues, and then traipse them all over the place. That might be taking matters a little too far. It will be for the Speaker to deal with that in due course, if it happens. The roundabout at the Narellan residential area is a matter that has been resolved through a council working party. It is my understanding that the matter went to the Department of Housing.

Early in my ministry I visited the growth area around Camden with the Minister for Local Government and Minister for Planning. We needed to assess what was to be done by us, as Ministers responsible, for the residents. When the honourable member spoke of the deputation he did not say which Minister was involved. I presume he referred to the Minister for Transport. The honourable member can decide whether that is appropriate or whether he

should continue to deal with the authorities. I know that many Ministers have been out to that area because of our knowledge of what is happening in the growth patterns experienced there. I assure the honourable member that the Government is doing its level best to address the matters raised. I am sure he would realize that all electorates are confronted with similar difficulties albeit his electorate is experiencing a level of growth not found elsewhere. The Government is endeavouring to address the problems as promptly as it can.

### AQUACULTURE

**Mr TURNER** (Myall Lakes) [5.50]: I wish to inform honourable members of an exciting proposal to promulgate and promote aquaculture in the Gloucester region of the Myall Lakes electorate. Aquaculture in this instance involves farming fish from fingerlings to a grow-out situation. The concept has been under-utilized in New South Wales. I realize that members' statements should be confined to matters relevant to their electorates, but the House should bear in mind that this industry will expand and will, therefore, be of interest to all of New South Wales. Fish will be grown from fingerlings in tanks and dams. Usually silver perch or dew fish are used. Both species have high multiplying and development rates; they double their own weight in one year and are quickly marketable as plate fish.

The activity may be commenced on small acre subdivisions, which will turn unproductive small holdings, or hobby farms, into productive holdings. Those who own the land will have the opportunity to make their land productive. The concept will enable the farm-out procedure to work on a franchise basis. It is an exciting prospect for the Gloucester region. Any undertaking in this regard will be visually aesthetic, unlike the chicken-shed proposition. Dams will be used which will be in keeping with the local environment. No pollutants are associated with the industry. All parts of the fish are used. If the fish are processed at Gloucester, which is my hope, the head and entrails of the fish will be returned as fishfood. The water from the tanks and dams, which must be replenished from time to time, contains some chemicals; but these are used in hydroponics, which is the process of growing vegetables and flowers in liquid.

The release of large numbers of fish into the creeks and rivers in the Myall Lakes electorate will help to eradicate the weeds that proliferate in the Gloucester area. Silver perch are voracious eaters of weeds. Anything that may be used to assist the control of noxious weeds will be most welcome. The availability of fish in local waterways will ensure a growth in tourism; for example, inland anglers and tourists who wish to visit established plants. An increase in fish production and providing fish at a reasonable price will have corresponding benefits in health, particularly with heart and cholesterol problems. The proposal will provide Gloucester with a massive boost in employment prospects. The concept is labour intensive and has attached to it the magic word decentralization.

Initially the pilot plant will grow 10 tonnes of fish. It will need the assistance and support of the Minister for Natural Resources with the availability of Crown Land holdings that may have to be acquired. The support of the Department of Agriculture and Fisheries will be required to ensure the successful promotion and marketing of the fish through the relevant agencies. The Minister for Business and Consumer Affairs could provide much needed assistance in regional development, employment and training and technical advice. Obviously the project will require support from the tourism industry.

Aquaculture is experiencing a growth rate throughout the world of 6 per cent annually. It has an untapped potential in New South Wales. This proposal will ensure the use of unproductive land on the east coast of Australia. I am looking forward to its establishment in the Myall Lakes electorate. The project reflects the true decentralization concept that this Government has undertaken to implement.

**Mr SPEAKER:** Order! The honourable member's time for speaking has expired.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [5.55]: I understand the excitement of the honourable member for Myall Lakes. My son is deeply involved with aquaculture. He has been appointed as officer in charge of the Barramundi project in Darwin, about which I anxiously await some news. He has also had some experience working in Sweden on trout and salmon farms. The concept has a huge growth potential within New South Wales. Its decentralization aspect is welcome and is in line with government policy in this regard. All honourable members should encourage their constituents to respond to the efforts of an inquiry that will be conducted over the next six months into measures required to boost decentralization. I realize decentralization has been tried in the past and has failed, but it should not be permitted to fall by the wayside. I am sure that no major political party went into the last State election with an effective decentralization policy. Appropriately the Minister for Business and Consumer Affairs will not impose a bureaucratic policy in this regard; the policy will emanate from the community, local councils, local chambers of commerce, and business people. I have been attempting to engender interest in my electorate and have been encouraged by the results.

Fish farming and fishing are now recognized as agricultural industries. That recognition has been long sought in New South Wales. The industry will benefit from any Government assistance. All measures that are available for agriculture are now available to the fishing industry. The tourism aspect of the proposal is tremendous. The honourable member for Myall Lakes mentioned four ministries whose assistance in the concept will be invaluable. I am sure the housing ministry is no exception. More houses will be required. We should all band together to make this venture a success. Whether the proposal commences in the electorate of Myall Lakes, Wagga Wagga, or elsewhere is irrelevant; it should be welcomed as it will benefit all New South Wales.

### SYDNEY HARBOUR TUNNEL

**Miss FRASER** (Balmain) [5.57]: I have been asked to convey to the Government the horror of some of my constituents and members of the Save the Botanic Gardens Committee at the proposed destruction of a portion of the Botanic Gardens to permit the construction of the proposed harbour tunnel. The tunnel, it seems, has gone ahead without adequate research and against the wishes of many people. It is a tunnel the construction of which the Greiner Government promised to halt. My constituents and members of the committee expressed concern about the proposed carpark at Benelong Point. An ugly exhaust vent will be constructed in the Opera House forecourt, where people will smell fumes emitting from it unless a strong wind is blowing. The architect of the carpark, Mr Bernard Connell, in the *Sydney Morning Herald* on 4th September, said that the fumes will smell like rotten eggs "all over the forecourt when no wind is blowing". Mr Connell said that although the two massive projects will be side by side in this sensitive area, the Government does not have an overseeing committee.

The Royal Botanic Gardens and Domain Trust (Amendment) Bill proposes to give the Minister the power to grant leases over the gardens for purposes connected with underground carparking, or for any other purpose approved by the Governor on the recommendation of the trust. In addition, a vague requirement is placed on the trust to ensure that to the maximum extent possible the surface of any land leased for the purposes I have referred to will remain available for use as public open space. These phrases allow for almost unlimited damage to the parkland and to the public interest. Underground parking is not a purpose for which public parkland should be used. Underground parking under a botanic garden is even more reprehensible, as a significant amount of drainage is required around the walls, ceiling and floor of the parking station. Purposes connected with underground carparking could include location of temporary construction sheds and roads; storage of materials and equipment; a series of ventilation shafts; and the locations of water supply piping, electrical mains, sewer access roads, and so on. The amending bill is the equivalent of special legislation overruling the present degree of protection of the botanic gardens. The bill provides also for removal of the Commonwealth underground oil storage tanks.

**Mr T. J. Moore:** On a point of order. The honourable member for Balmain is dealing with a matter that is already before the House. I submit that she is in breach of the standing orders.

**Mr SPEAKER:** Order! I seek the Minister's advice whether the honourable member is conflicting with anticipated debate on the Royal Botanic Gardens and Domain Trust (Amendment) Bill.

**Mr T. J. Moore:** That is the bill to which I refer.

**Mr SPEAKER:** Order! I must uphold the point of order. For the information of the honourable member for Balmain, a member may not raise a matter in private members' statements that is essentially the subject of a bill before the House. This occurrence is rare; it is known as anticipation of debate. I suspected that the matter raised by the honourable member was the subject of legislation before the House, but as I was unsure I was unable to intervene immediately. I ask the honourable member for Balmain to resume her seat. The question of a reply by the Minister does not arise.

Private members' statements noted.

*[Mr Speaker left the chair at 6.1 p.m. The House resumed at 7.30 p.m.]*

## RESIDENTIAL TENANCIES (AMENDMENT) BILL

### Second Reading

Debate resumed from an earlier hour.

**Mr MERTON:** The bill proposes amending section 28 (1) to reduce from \$800 to \$500 the amount that a tenant may be reimbursed for urgent repairs to a rental property. The operative word is urgent. If a roof leaks, a new roof does not have to be installed; the roof must simply be repaired sufficiently to meet the emergency. In an ideal world one could expect to leave most matters of housing, particularly rental arrangements, to the landlord and the tenant. However, the legislation provides clearly that the tenant must engage the tradespeople nominated by the landlord or his agent before the work is carried out. The reason for this provision is obvious; an over-enthusiastic tenant may have a plumber or electrician mate and during a weekend the property may be

rewired. An enormous dispute would develop as the landlord would not look favourably upon a request that he pay for that work. We believe that this legislation offers the best of both worlds to landlords and tenants.

The section in the Act dealing with the payment of rent in advance remains basically the same. The only amendment has been to alter the prescribed rent from \$300 a week to \$250 a week. On the subject of applications for rent to be determined as excessive, if certain services have been withdrawn or the premises have deteriorated, the legislation will make it possible for a tenant to have the rent recalculated to the date of the withdrawal of the services or the damage to the property. Under the legislation introduced by the former Labor Government, the tribunal had power only to reduce the rent from the date of the application. This Government has improved the rights of tenants.

The amendments contained in this bill will reduce the period of default for rent arrears from 14 days to seven days. The honourable member for McKell spoke of the problems that people can face, particularly those on social security benefits. The Government understands that social security recipients often have problems when benefit cheques are delayed, but this legislation will reduce the period of default by seven days. Under the Labor Government's legislation, a tenant experiencing a major problem in receiving social security benefits would obtain no redress if his difficulties continued for some weeks. Proposed new section 119A deals with the office and identification of an investigator for the purposes of the Act. An investigating provision was inserted in the Residential Tenancies Tribunal Act, which was introduced by the previous Government and has been in operation since 1st October, 1986. From my understanding, few problems have been encountered with that legislation. The provision in that Act is similar to the proposed new section of the Residential Tenancies Act. Investigators do not have the authority to enter residential premises without the consent of the occupier.

I turn now to remarks made by Opposition members in this debate. The honourable member for Waverley spoke of the housing position in this State. He should be well aware that the actions of the previous Labor Government and its federal masters contributed to the housing crisis in New South Wales. The failure of that Government to rezone adequate land, its decision to unionize the building industry—which alone added about \$3,000 to \$5,000 to the cost of building a house—high interest rates, capital gains legislation, and flirting with restrictions on negative gearing, all assisted to produce a climate where about 80 000 names appear on the welfare housing waiting list. That is what this Government inherited. But it is worse than that. Those 80 000 names represent about 200 000 individuals.

The honourable member for Waverley spoke about people being denied fundamental justice. He failed to give any examples but went on to speak about the motor vehicle industry and restaurants. At that stage I thought he had not even read the legislation, but I was wrong. A short time later, after some assistance from the Chair, he returned to the bill and raised certain issues. He said that the power of resolving disputes had been removed from the tribunal—a matter also raised by the honourable member for McKell. The reality is that disputes clutter the functioning of the tribunal. Most serious disputes will probably become breaches automatically, and will be handled by the tribunal.

Disputes are often vexatious. For example, a tenancy agreement may stipulate that no animals are allowed on the premises. A dispute may develop about what an animal is. One can imagine the time taken by the tribunal arguing questions such as whether silkworms can be deemed to be animals within the

meaning of the lease. That sort of thing delays court hearings, and it delays people from obtaining justice. Though the prescribed rent will be reduced from \$300 a week to \$250 a week, the payment of rent in advance will remain at two weeks. But we are not talking about low-budget accommodation. No real changes have been made to the many thousands living in the western suburbs who pay rents of less than \$250 a week. The average rent for a three-bedroom dwelling in the western suburbs is about \$150 a week.

**Mr J. J. Aquilina:** You would not want to live there.

**Mr MERTON:** It is interesting that the honourable member for Blacktown says that, as I am talking about Blacktown and Plumpton, the area that he has the privilege of representing in this House, but he would not want to live there.

*[Interruption]*

**Mr SPEAKER:** Order! If the honourable member for Blacktown wishes to participate in the debate, he should seek the call.

**Mr MERTON:** We are talking about areas west of Sydney. I find it hard to accept that the honourable member for Blacktown says that he would not want to live there. This legislation will not affect the majority of tenants in the western suburbs where rents are much less than \$250 a week. The honourable member for Waverley spoke about the investigation section. These provisions are similar to those introduced by the former Labor Government. Investigators will not be permitted to enter residential properties. The honourable member for Waverley was not completely satisfied with the bill but he considered that it was not wholly bad. However, this Government has not made any substantive changes to the legislation. The honourable member then complained of this Government selling off land. The proceeds of land and property sold by this Government will be applied to welfare housing. By 1992, at the end of the day, our record will be much better than Labor's 12 years of neglect, delay and ineptitude.

The honourable member for McKell spoke about the tightening of the rental market. It is amazing that within the past eight months Opposition members have realized that there is a tragic crisis in the rental housing market, but for 12 long years they wiped their hands of the problem and simply did not want to know. I wonder what the voice of conscience said at those Labor Party meetings during those 12 long years. Was the Labor Party not concerned about what was happening? The former Government took no steps to solve the problem, and this Government has inherited a dreadful legacy. We are not talking about 80 000 people; we are talking about more than 200 000. Those looking for accommodation can well say that they were sold out by a government that purported to represent the interests of the battler and the underdog; sold out for political expediency; sold out to the Labor Party's newly acquired rich mates; sold out to the people who held cocktail parties at Darling Point where they sipped Bollinger champagne from silver goblets and talked about the problems of the poor.

The honourable member for McKell spoke about the problems of pensioners, a subject referred to earlier. However, her suggestions would not have given any hope to a pensioner who was in dispute with the Government, because we all know that those problems are not solved overnight. The reality is that there is a fundamental lack of understanding from within the Opposition ranks that houses are not built overnight. The property rental market depends on the collective efforts of many thousands of small investors. Many of them

are probably Labor voters, and that is marvellous. They have had the courage, enterprise and initiative to mortgage their family homes and buy a second property for rental purposes. One wonders what rights they should enjoy.

If a landlord has a problem collecting rent, what should he say to the mortgagee, who expects a payment every month? What would happen if the landlord said to the mortgagee, "Because of a problem with the tenant I have not been able to collect the rent this month and so cannot make my mortgage payment." Many thousands of small property-owners rely on their weekly or monthly rental receipts to meet their mortgage repayments. Corporations and small investors provide the basis of rental property in New South Wales. If they leave the market the problem would fall on the Government's doorstep. The Government inherited a waiting list of 85 000 people for public housing. So, it would be a tragedy if private investors were driven from the rental market. I wonder at the social conscience and commitment of the Opposition if it will not accept the reality that if investors are driven from the property market, houses and units will not be built in New South Wales for rental purposes.

The housing crisis did not happen overnight. It took 12 years to develop. The Government has taken positive steps in many directions to remove the crisis. It has introduced amendments to the Residential Tenancies Act and will introduce this legislation to overcome what the Labor Party thought about for 12 years but did not have the courage to implement. The Government will make these changes. The Government's attempt to balance the rights of landlords and tenants will not please all people. However, at least it is taking a step in the right direction. When all the problems were developing in the New South Wales housing industry where were the champions of the underdogs? Have those champions acquired a new social conscience, perhaps motivated by political expediency when they analysed the results of 19th March? The Government has taken steps to improve the circumstances of tenants and landlords in New South Wales. The bill is a realistic attempt to try to balance the rights of both groups within society as it is today. I support it.

**Mr A. S. AQUILINA (Mulgoa) [7.43]:** I do not quite know how to follow that tirade with reasonable and logical comments. I found a number of the remarks of the honourable member for Carlingford to be rather offensive. In the inimitable words of the honourable member for Rockdale, I also am offended. Honourable members should consider this legislation logically and, without rhetoric, consider what it will achieve. Honourable members would agree that the 1987 legislation introduced by the previous Government was a true and proper attempt at finding solutions to the problems of tenants and to the rental crisis. That crisis did not develop over 12 years, and was not the fault of the Labor Government. Let us forget the sort of rhetoric that one might use among one's colleagues, and look at this legislation logically and consider the real needs of the people.

The Government says that its members are caring, that it is a different coalition, which has changed its colours. However, this bill suggests that its colours have not changed. It is a means of helping well-to-do landlords who, for some time according to the Government, have had it hard. Frankly, I find that difficult to believe. I agree that there may be one or two small investors who are not well-to-do. However, I do not believe that those people complained about the previous Government's Residential Tenancies Act. Indeed the Real Estate Institute and the tenants' groups welcomed the 1987 legislation. There was general agreement with and broad support for the 1987 legislation that was introduced by the caring Labor government—the real caring party that does care about the needs of the people.

**Mr Caterson:** That is not what the people thought in March.

**Mr A. S. AQUILINA:** Obviously the people of Port Stephens realized that this Government does not care, and that it could not possibly be supported again. So when the honourable member talks about what the people did in March, he should remember the events of the past few weeks and what the people of Port Stephens and North Shore thought about the Government.

**Mr Kerr:** Labor received only 7 per cent of the vote in the North Shore by-election.

**Mr A. S. AQUILINA:** The Liberal Party did not receive many votes. I am pleased that the honourable member for North Shore is in the Chamber. Many of the problems that she has encountered and will encounter in her electorate result from the Government's policies. I wish her well and hope she is able to deal with them in an appropriate way. This bill will return tenants to the days when they had very few reasonable rights. The 1987 bill that was introduced by the previous Government attempted to provide a form of support for both landlords and tenants.

Reasonableness has been removed from this bill, as has been mentioned on a number of occasions. One finds in the bill a consistent withdrawal of what is considered to be reasonable rights. For instance, the bill will abolish the requirement for written authority to allow the landlord to enter his rental premises. That was a reasonable consideration that the previous bill addressed. However, this legislation will remove the requirement for that written authority, that protection that tenants had from landlords entering their premises at unreasonable times and without appropriate authority. Reasonable grounds for refusal to perform alterations is another example of the unreasonableness of this bill. That measure was provided in the previous bill but will be removed by this legislation.

I am speaking on behalf of the constituents of the electorate of Mulgoa, the people I represent, many of whom cannot afford to pay off a mortgage and at the moment are not eligible for welfare housing. These people rely on the provision of reasonably priced rental accommodation. Many people in my area are poor or disadvantaged or are pensioners who have not been able for one reason or another to prepare themselves for retirement and they are not able to obtain Department of Housing accommodation. The response from members on the Government side is to ask why the previous Labor Government in its 12 years in office did not do something for them; why did it not provide accommodation for these people? But, the rental crisis did not occur over those 12 years. It is a phenomenon of recent occurrence.

**Mr Schipp:** On a point of order. I hesitate to interrupt the honourable member, but earlier you gave a ruling about members confining their remarks to the leave of the bill. The honourable member is not keeping to the leave of the bill. He has been speaking for seven minutes and for about one minute of that he has touched on the bill. The House is now being treated to a philosophical world tour on housing, covering welfare housing, public housing and other aspects. We are dealing with amendments to an Act that was passed by the Parliament but never enacted. The Government is seeking to amend an Act and honourable members should be confining their discussion to the amendments. Otherwise, again I say to you that we will open up a debate that could run on all night.

**Mr SPEAKER:** Order! I uphold the point of order. The honourable member for Mulgoa will be aware that the bill is specific in its objectives. It deals with residential tenancies, disputes between landlords and tenants and various provisions arising out of that matter. As it is an amending bill it does not give the honourable member any scope to traverse the area covered by the principal Act. There is no scope for a general debate on the subject of housing. I ask the honourable member to come back to matters strictly relevant to the bill.

**Mr A. S. AQUILINA:** I must say that members on the Government side who have spoken in the debate seemed to me to be traversing other areas, but I accept your ruling. The point I was trying to make is that there are many people who are in need and this bill will make it more difficult for them to be provided with rental accommodation on a reasonable basis. I am concerned about ordinary people in the electorate of Mulgoa and in other electorates who are seeking accommodation. Every day many people come into my office seeking help and they cannot obtain rental accommodation because it is far too dear. It is not good enough for the Minister to pass on to members on the Government side who speak in the debate a printed document stating that in Blacktown or Penrith or some other place some figure is being bandied about as the normal rent. I know of people in St Marys who are about to pay \$180 and more a week for an ordinary three-bedroom home, and that does not support the comments that members on the Government side have made in this debate. The honourable member for Carlingford has not, in my view, had the experience of dealing with some of the people of the outer west. The honourable member ought to come out to St Marys and to the other areas where people are paying much more than \$150 a week in rent.

Let me take the case of a person seeking rental accommodation. Under the provisions of the bill that person will need to pay four weeks' rent in advance rather than the two weeks' rent in advance he or she would have been required to pay under the previous legislation. That in itself is a large encumbrance to the many constituents of the electorate of Mulgoa who are poor or disadvantaged. Someone who would have to pay \$180 a week—which is closer to what people in St Marys and Penrith areas would be paying—and who had to pay one month's rent in advance would need to pay \$720, together with the four weeks' bond of a further \$720. That person will now have to pay for the preparation of a lease, a further \$25, and I think it will probably turn out to be more than that. Then there is the security deposit for gas and the security deposit for electricity and the cost of telephone reconnection. That person is looking at a payment in the vicinity of around \$2,000 before he or she can move into any adequate sort of accommodation.

In my view the cost of lease preparation should be shared. We are talking about being fair and considering the needs of both the tenant and the landlord. In my view the landlord ought to pay at least half the cost of the preparation of the lease. There is no justification for asking the tenant to pay one month's rent in advance and a four weeks' bond. That is not being fair in any way or making it easier for people in great need to obtain rental accommodation. The House hears rhetoric from members on the Government side about what this Government is on about and how it is going to help the poor, the disadvantaged and all the other people who, we are told, were forgotten by the previous Government. I fail to see how members can make those remarks if they look at the facts and consider what the Government proposes to do by this amending bill. It is not good enough to talk rhetoric and blame the previous Government for the housing problems. It is time to look at the needs of the people at present and in the months to come, for this amending bill when enacted will remain in

place for months and possibly years. Whatever is done will remain the law for a long time.

The people of Mulgoa and the disadvantaged generally—people who are not in the well-to-do bracket—will be adversely affected by these amendments. I ask the Minister to give earnest consideration to the amendments that the Opposition will be proposing. The proposed reduction of the period of notice of termination to seven days will compound the problem. People will be given very short notice to quit. The landlord may want to sell the property or demolish it. In my view seven days is not a fair period of notice to quit. It is just not good enough. The cost of urgent repairs is being reduced from \$800 to \$500. That again will cause difficulty for the ordinary working-class person who needs urgent repairs done to his accommodation. Today \$500 does not go very far towards any sort of repairs on a house. People needing to have such repairs done will not be able to have them done urgently. They will have the choice of doing the repairs themselves and paying more for them or requesting the landlord to have them done. I accept that those people could have the repairs done for more than \$500 but they may have to wait for some time for the landlord to give approval to the repairs being done.

In my view it would be far better and fairer for the ordinary tenant, in particular as the cost of repairs is increasing, if the limit for reimbursement were to remain at \$800 rather than the proposed \$500. The principal Act ought not be amended in this way. The amendments to the Residential Tenancies Act will make life more difficult for the poor, the disadvantaged, those unable to care for themselves and those who need the support and help of the Government. They will have to pay more money for rental accommodation. They will not have the accommodation that caters for their needs, which was provided by the previous Government. I urge the Government to reconsider its proposal to proceed with this Residential Tenancies (Amendment) Bill as presented and to consider the amendments that will be proposed by the Opposition.

**Mr MATHESON** (Penrith) [8.1]: I welcome the proposed Residential Tenancies (Amendment) Bill which is well-balanced legislation. The bill will codify the rights and obligations of landlords and tenants in New South Wales. It will expand the existing Residential Tenancies Tribunal by the appointment of full and part-time members to resolve disputes between landlords and tenants. An appropriate balance between tenants' and landlords' rights and obligations will be obtained through the introduction of this bill. The previous Government consulted with representatives from the community, property groups and others for about 10 years but it could not come to any consensus in relation to this matter. It was unable to address the stumbling block of the method and responsibility for adjudication, in particular for the needs of permanent caravan park dwellers. This bill proposes 30 amendments to the Residential Tenancies Act. One third of the amendments that are required are due to the change of responsibility from the Department of Consumer Affairs to the Department of Housing. Another third of the amendments are required to reduce red tape, something the previous Government was very good in creating. The balance of the amendments are to restore a fair balance to the rights of tenants and landlords.

The tribunal will be streamlined. Minor complaints, which might be better dealt with elsewhere, will be limited by the tribunal's jurisdiction. Another streamlining procedure is the removal of the requirement of the owner to appear before the tribunal on two separate occasions in order to gain a warrant of possession. The registrar or the deputy registrar of the tribunal will, on application by the landlord, be able to issue a warrant of possession after

an order has been made by the tribunal without the need for the landlord to make further appearances. I welcome the cost disincentive to any party who pursues unjustifiably a tenancy issue through the court system. The efficiency, the economy and the responsiveness of the tribunal will be improved by the removal of these unjustified claims.

The bill will eliminate procedures for the landlord and tenant which are unnecessary. For example, the requirement for the landlord to provide more than one executed copy of a residential tenancy agreement where multiple tenants occupy the premises will no longer be necessary. The removal of the requirement for the landlord to provide written notice to gain entry to the premises is welcomed. Where the landlord employs an agent it will be sufficient for the tenant to know the agent's business address only. The requirement in relation to entry to the premises by the landlord in relation to time and notice given will not be changed. The landlord may only enter the premises with the consent of the tenant or by order of the tribunal. The Government is not ashamed to restore the balance of rights and obligations of landlords and tenants. The tribunal may order access to the premises if, on reasonable grounds, belief is held that the tenant has not complied with the residential tenancy agreement. That provision only relates to the use of the premises for an illegal purpose, causing a nuisance or interfering with the peace, comfort and privacy of neighbours. The landlord may not enter the premises if he suspects a breach, but must appear before the tribunal and state his case for an order.

The amount of \$800 as reimbursement for the cost of urgent repairs in the principal Act was far too high. The amended amount of \$500 is considerably fairer. A similar amount to that exists in Victorian legislation and is considered by that State to be adequate. Where the landlord nominates tradespeople for carrying out urgent repairs, the tenant will be required in the first instance to contact or attempt to contact the tradesperson nominated; what could be fairer than that? For the first time permanent residents of caravan parks will be covered automatically by the proposed legislation. They will have similar rights and obligations laid down for tenants living in flats or homes. The Government will monitor the effectiveness of the tribunal. It has already introduced two amendments as a result of the identification of flaws in the operation of the existing tribunal. I welcome the annual review mechanism that is built into the legislation. It will allow any problems that arise to be addressed quickly.

The general provisions of the principal Act will remain the same in the amending bill, that is it will provide information about the law. It will provide a standard set of rights and obligations for both tenants and landlords. In addition it will provide for a standard residential tenancy agreement, and an independent and accessible tribunal. The legislation will extend the landlord and tenant relationship to include permanent residents of caravan parks which is a minor fine-tuning of the principal bill. I support the legislation.

**Ms MOORE (Bligh) [8.8]:** I oppose strongly this draconian legislation. It is part of the insensitive response by this Government to the escalating urban housing crisis. Other responses of the Government have been to sell off much needed housing sites, and I refer in particular to the Crown Street hospital, though it was well beyond the development application stage and \$1 million had been spent on it. This week the homeless inquiry, another response of this Government, will release its report, albeit reluctantly. Spiralling home prices, especially homes close to the city and the area I represent, have meant that renting is the only choice for many people. It has been estimated that about 64 per cent of people in the inner east of Sydney are living in rented accommodation. The laws relating to residential premises are hopelessly out of

date. The Minister will claim that the Government is doing something about this problem by introducing this bill, which deals with residential tenancies. The Government has introduced the legislation within the first 12 months of its office. That is something of a record as it took the previous Government 12 years to introduce a watered-down version of the Residential Tenancies Act which it failed to proclaim.

The 1987 residential tenancies legislation needs amending. This is why I gave notice of my still undebated Residential Tenancies (Amendment) Bill several weeks ago, which both the Government and the Opposition have ensured has not been debated. Unlike the Government's bill, my bill was the result of widespread discussion and consultation with the people most affected by residential tenancy laws—the tenants. My bill sought to overcome the inadequacies of the 1987 legislation which this bill before us fails to do. My bill seeks to extend the coverage of the Act to boarders and lodgers, to prohibit discrimination against people with children, to provide for rent disputes to be settled on a fair rent basis, to restrict rent increases to once a year, to prohibit evictions where there are no grounds, and to give tenants and landlords automatic rights of representation before the Residential Tenancies Tribunal. Not surprisingly, the Minister's bill has little in common with mine. The Minister's bill fails to address the real problems facing tenants. Instead, the Minister accuses—

**Mr SPEAKER:** Order! I draw the attention of the honourable member for Bligh to the fact that she is limited in this debate to the leave of the bill before the House. As I have pointed out twice already, the bill before the House is limited in its scope; it is an amending bill and does not afford the honourable member for Bligh any latitude to discuss the principal Act. The honourable member is also anticipating debate in that she has said she has given notice of a bill she will seek to bring before the House herself and that the bill being debated has little resemblance to her bill; therefore, any comments she wishes to make about her own bill are out of order and any comments she may wish to make about housing generally are also out of order. The honourable member must speak to the specific provisions of the amending bill and those alone.

**Ms MOORE:** I believe that by presenting the case I have put forward so far I have shown the inadequacies of the bill before us, which I believe is relevant to this debate.

**Mr SPEAKER:** Order! The honourable member may feel that the Minister's bill is inadequate in that many matters in the principal Act are not amended, but that does not give the honourable member licence to discuss those matters. She may debate the manner in which she believes the measures in the bill are inadequate in what they are intended specifically to do but she cannot extend the debate to matters she believes ought to be found in the amending bill. She can debate only the specific matters that are the subject of the amending bill.

**Ms MOORE:** Instead of looking at the rights and needs of tenants at this time the Minister's bill, as he states, will ensure that the scales are tipped towards the landlord. Under the guise of restoring an appropriate balance the Minister is tipping the scales the other way, setting out to decrease the rights of tenants and to increase the rights of landlords, to remove the power of the Residential Tenancies Tribunal which resolves disputes between landlords and tenants, to remove the requirement for landlords to provide written notice for themselves or others to gain entry to rented premises, to reduce the notice period for termination for rent arrears from 14 to seven days, to reduce the

emergency repairs tenants can undertake from repairs valued at \$800 to no more than \$500, and to enable landlords to demand that rents of more than \$250 a week are paid one month in advance.

Each of those changes will make the existing tough situation for tenants even tougher. I am most concerned about the Residential Tenancies Tribunal being converted from a valuable and genuine means of resolving conflict to what can be best described as a fast, efficient, eviction machine. Why this amendment? Perhaps the truth can be found in the address by Mr Max Raine to the thirty-eighth annual general meeting of the Property Owners Association which was attended and addressed also by the Minister. Max Raine said, "The average investor doesn't want the costs or the indignity of being called before the tribunal to prove his case."

An effective and well-resourced tribunal should not be costly to the people who appear before it, nor should the experience involve any indignity. Mr Raine and the Minister failed to recognize that using the tribunal as a means of resolving disputes is a last resort for tenants. Fair and reasonable landlords are not called before the Residential Tenancies Tribunal. Studies carried out on the operation of tenancy tribunals in other jurisdictions show that they rarely, if ever, receive frivolous or vexatious complaints. The Minister suggested that disputes, which he wanted to classify as being frivolous or vexatious, might be better dealt with in another forum. But, what other forum? The court—where the tenant risks incurring much greater costs?

Other parts of the bill cause grave concern to tenants. One matter is the decision to reduce the amount of permissible emergency repairs; another is the amendment that will allow landlords to claim rent in advance if it is more than \$250 a week. In both cases the Minister is reducing the amounts specified in the original Act. This bill does not address Sydney's serious housing crisis. I wonder whether I will be called to order here. I notice that many of the earlier speakers in this debate referred to Sydney's housing crisis. As I represent the electorate that is probably experiencing more than any other area in the whole of New South Wales the present urban housing crisis, I should like to refer to that matter and to do so in the context of the bill before us.

**Mr SPEAKER:** Order! The honourable member for Bligh seems to be seeking some clarification. Some of the references made by previous members to the general housing situation were ruled out of order. The honourable member may touch upon the housing situation as she feels these amendments affect it, but cannot go beyond that.

**Ms MOORE:** It is difficult to refer in general terms to the housing crisis which I see within my electorate each day of the week when people face eviction, rent rises, and an inability to get on to the priority housing waiting list, and at the same time refer to the detail of the amending bill because that bill is so inadequate and so lacking—

**Mr SPEAKER:** Order! The honourable member for Bligh is virtually canvassing my ruling. The Chair does not determine what is in legislation that comes before the House. The Chair's role is to ensure that the debate relates to matters before the House. If the bill restricts matters the honourable member for Bligh would like to raise, other forms of the House can be used to allow much wider debate. At the moment she is confined to the leave of the bill before the House.

**Ms MOORE:** In his second reading speech the Minister admitted that he did not attempt here to duplicate tenancy law reform in other States of Australia or overseas but rather to tailor reforms to the particular needs of Sydney and the New South Wales market. The Sydney and New South Wales market, where house prices are spiralling and rents are going through the roof, are best described only as markets. The Minister wants to leave the tenants to the uncertain vicissitudes of the market. It seems like the members of the Property Owners Association are saying that the strings should be taken off to give the landlords a free hand. The consequences of this approach were seen under the previous Government. Boarders and lodgers in this city were sacrificed for the previous Government's tourism development strategy. No parallel policy was developed to house the people evicted to further the aims of the bicentenary's associated tourism development strategy.

**Mr Kerr:** Did the Labor Party do that?

**Ms MOORE:** That is right. To give but one example, a boarding-house in Potts Point had 30 tenants—

**Mr SPEAKER:** Order! The honourable member for Bligh is deliberately flouting my ruling. I have been patient because she is a new member of this House. However, she must return specifically to the leave of the bill or I must ask her to resume her seat.

**Ms MOORE:** Obviously the bill is inadequate so I shall conclude my contribution by saying that the bill must be drastically amended, if not in Committee certainly in another place. Perhaps the one thing that those who are affected by the housing crisis in this State can look forward to is the bill's being overturned in the upper House.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [8.20], in reply: I thank honourable members representing the electorates of Northern Tablelands, Carlingford and Penrith for their fundamental understanding and knowledge of the legislation and for correcting the many misrepresentations that emanated from the Opposition. I shall be gracious and thank the honourable member for Waverley, the honourable member for McKell, the honourable member for Mulgoa, and the honourable member for Bligh for their contributions. The honourable member for Bligh, however, was unfair in her comments. Not one of the members of the Opposition who contributed to the debate had the decency to acknowledge that they were fully briefed by officers of the Department of Housing and my personal staff. Not one of them conceded that this was a unique approach in politics. They showed a lack of understanding and obviously did not benefit from those briefings. Their contributions were in the main nonsense, which is indicative of the depths to which the Opposition will stoop to try to present opposing arguments. I shall think twice before I extend that courtesy again. No member from the Opposition side of the House should lecture Government supporters and suggest that we have no feeling for tenants and are not *au fait* with their problems. Many Government supporters have had an input into the drafting of this legislation to ensure that these measures will be implemented before this session draws to a close and their effects will be felt by the early part of next year.

Much has been said about the 1987 legislation. The Opposition suggested that it was welcomed by all. If that is so, how does the Opposition explain the avalanche of complaints and requests for amendments I received prior to the State elections and following my appointment as Minister for Housing? I have grave reservations about accepting the Opposition's assertion that there was wide acceptance of the 1987 legislation. A significant consultation

program was conducted so far as this legislation is concerned. Obviously difficulties were experienced obtaining complete acceptance of it. But it has been introduced in an approved form, unlike the 1987 legislation, which was introduced after 11 years of Labor administration during which six Labor Ministers responsible for consumer affairs were baulked at the barrier by members of their caucus and Cabinet.

**Mr E. T. Page:** The legislation has not been passed yet.

**Mr SCHIPP:** It will be. But I want to put this proposition fairly and squarely to the Opposition: the legislation will not be passed if the Opposition seeks to do what the honourable member for Bligh suggests, to block it in the upper House. If that happens, this legislation will be held up. I have obtained acceptance of the legislation from those with whom the Government consulted, who said that the legislation is acceptable so long as its use is monitored and it is updated when it is thought necessary. The Government is not fooling around with this legislation. This is it.

**Mr Markham:** Is the Minister making threats?

**Mr SCHIPP:** Yes; I am threatening the Opposition. Upon this legislation depends the caravan campers' and retirement village legislation, and the interests of all tenants. Amendments to the 1899 Act have been promised for many years. I have attended the meetings of property-owners that the honourable member for Bligh referred to. I have heard successive Ministers stand up and proclaim to the world that legislation would be introduced. But nothing has been done. I guarantee that this Government intends to have this legislation gazetted at the earliest possible time in the new year. The tribunal will be up and running as soon as possible; in about March or April next year.

**Mr Markham:** Why March or April?

**Mr SCHIPP:** Christmas intervenes in the meantime and the tribunal will have to be set up. If the Opposition attempts to block this legislation, the consequences will be on its head. I warn the people in the gallery and the community that if this legislation is blocked, no further attempt at reforming the Landlord and Tenant Act 1899 will be made for a long time to come. It is not that I do not wish it to be reformed, but governments can do only so much in their attempts to fulfil the tasks with which they are charged. This Government is doing it in a way—

**Mr Markham:** It has taken a long time.

**Mr SCHIPP:** It has not taken that long. Syd Einfeld dined out on this promise for a long time. Government supporters have been through much agony to introduce this legislation. The Government received qualified blessing for this legislation in its present form from all those who were consulted about it. That should be understood here and now. The honourable member for Waverley said that reasonableness had been taken from the legislation. He said that on 21 occasions the word "reasonableness", and the word "unreasonable" on two occasions, had been removed from sections of the Act. The Government has not monkeyed around with this legislation. I dislike dishonest representations. When I was in opposition on no occasion did I ever put a dishonest proposition to the House. I always put what I thought was right and proper. Not once did I attempt to muddy the waters to make people believe what I was saying. Among the matters of concern alluded to by members of the Opposition was the issue of disputes settlements. The Government suggests that the disputes provisions should be removed from the legislation to enable hearings to be fast-tracked. The disputes provisions will bog down the functions of the tribunal.

Had members of the Opposition asked during the briefings they received from officers of the department and my personal staff, they would have been informed that the tenancy commissioner has a role in assisting those in dispute. The tribunal will play a conciliatory role before breaches are heard formally. It will attempt to solve disputes before the serious stage of disputes hearings is reached that the honourable members representing the electorates of Bligh, McKell, Waverley and Mulgoa suggested would be a disaster because of this legislation. No recognition was given to the fact that housing and tenant advisory services would assist those involved in landlord and tenant disputes. Obviously no one wants disputes hanging round for long periods; they would rather they were settled. A mechanism will be set up to enable the more serious disputes to be heard promptly. During the process stopping-off points will enable matters to be handled and settled in amicable fashion. The matter of notice in writing from the owner of property was explained by Government supporters; its purpose is to assist the tenant to get—

[Interruption]

**Mr SCHIPP:** I should not give the honourable member gratuitous advice but he should read the Act. An Act of Parliament must be read together with the bill in order to understand the legislation. If the honourable member had done that, he would know that the bill contains similar provisions to those in the Act, such as entry times, entry on Sundays, entry between 8 a.m. and 8 p.m., and the infringement on people's peace and enjoyment. This bill provides that if a tradesman is available at short notice to carry out a repair, he does not have to waste time locating the agent or the landlord but can gain immediate access to the premises.

Often tradesmen become available unexpectedly, but they will still have to obtain permission from the tenant. They will not be able to kick the door down, as Opposition members seem to suggest. The amendment will make it convenient for tenants to have repairs done in the shortest possible time. The provisions relating to access to rented premises are exactly as the former Government left them. The honourable member for Waverley claimed that the former Government's legislation was the greatest measure in history. At the commencement of his contribution to this debate, he said that I had not amended the legislation to any extent, but then he became confused.

**Mr E. T. Page:** You are telling lies.

**Mr SPEAKER:** Order! I call the honourable member for Waverley to order.

**Mr SCHIPP:** The honourable member should not tell me that I am telling lies. He simply does not understand the bill. This bill makes no changes to provisions affecting the infringement on privacy of tenants. The honourable member for Bligh said that it was dreadful that an owner's name and address would not be revealed to a tenant. The landlord's name appears on the rental agreement, together with the name and address of the agent. But the former Minister for Housing was ready to act to remove this provision from the legislation. The honourable member for Waverley was the former Government's representative on the New South Wales Housing Council. I doubt that the honourable member, with his less than vast knowledge of housing matters, contributed much to the work of that council. Opposition members should not allege that this Government is doing something dastardly, when the former Government intended to do the same thing.

Another matter raised by Opposition members was the reduction from \$800 to \$500 in the amount that a tenant may be reimbursed for urgent repairs to residential premises. In arriving at a decision on this matter, the Government considered the position in Victoria and was informed that \$500 is more than ample to cover urgent repairs until the problem can be finalized. The Government has received complaints from tenants about this section of the Act. It does not matter whether the sum is \$1,000, \$1,500 or \$2,000 as tenants do not have the money to pay for urgent repairs. To overcome the problem, the bill provides for a landlord or his agent to nominate a tradesperson without the tenant having to meet any of the costs. That amount will be charged to the landlord or his agent. Is that not more sensible than placing an artificial figure on the cost of repairs? The Government is simply trying to formalize the normal relationship between landlords and tenants so that the obligations of the respective parties are known and the law is consistent. Why does the Opposition object to that?

**Mr E. T. Page:** Because the Government has made a mess of it.

**Mr SCHIPP:** It was the former Government that made a mess of it. On the subject of rent in advance, the honourable member for Waverley and the honourable member for Mulgoa quoted figures as high as \$2,300. The impact of this legislation will be about \$100.

**Mr E. T. Page:** It is \$500.

**Mr SCHIPP:** It is not \$500. The honourable member simply does not understand; neither did the honourable member for Mulgoa who doubled the figure of \$180 and arrived at \$720 instead of \$360. I am not understanding the difficulties that some tenants face, but this Government does not want to make life more difficult for them by driving investors out of the rental market, as the Labor Party did. We are trying to be as fair and as practical to both sides to encourage investors to return to the private rental sector, which forms about 20 per cent to 23 per cent of the total housing market. The Government cannot afford to build its way out of the housing crisis; we must keep investors interested in providing rental properties. Some Opposition members say, "Kick the landlords to pieces"; but then they say, "Landlords are not so bad and in any case we are only condemning a few of them".

Some speakers in this debate raved on about artificial rent increases. One Opposition member said this would be a shortcut to rapid rent increases and evictions. Artificial rent increases are handled by the tribunal. If tenants believe that their rent has been artificially increased without reason, they can pay \$20 and have the matter considered by the tribunal. The Government ensures that the tribunal is quick and accessible, with a 14-day turnaround and a conciliation process before a hearing takes place. One honourable member said that if a tenant is two weeks in arrears, he is given one week's notice and then evicted. That is completely untrue. Anyone with the slightest knowledge of this legislation knows that a landlord cannot evict a tenant. The matter must go to the tribunal for decision.

The bill provides for the tribunal to attempt a conciliation process and arrange for an occupational fee to be paid until a solution can be found. The Government is preventing evictions by this measure. Under the sort of legislation that the honourable member for Bligh would like to see introduced, the landlord would lose complete control. He would become the welfare agent of the Commonwealth Government and the State Government and would suffer all the loss. Ultimately he would withdraw from the rental housing market. This Government is installing a system where, if a person has trouble meeting his

rental payments, something can be done. The honourable member for McKell raised a hypothetical case of a recipient of social security benefits whose cheque had been delayed. She maintained that such a person would be evicted if he was two weeks in arrears and the week's notice had expired. However, a tenant in that position would take his case to the tribunal which would take his circumstances into account.

**Mr E. T. Page:** How long would that take?

**Mr SCHIPP:** Fourteen days. The turnaround time in the city is 14 days and in the country it is 28 days. The Government is endeavouring to keep to those targets and I believe that can be done. The bill provides for disputes between landlords and tenants to be removed from the control of the tribunal, with only breaches of tenancy agreements remaining. This was done so that the tribunal can concentrate on quick responses to matters that come before it. Delays in the Local Court system are from 12 weeks to 14 weeks. The honourable member for Bligh threatened that this legislation would be blocked in the upper House, but the result would be that disputes would have to be referred to Local Courts and be subject to long delays. No one in his right mind would promote such a system. I understand that this legislation will be forwarded to the upper House tonight. I hope that common sense prevails and honourable members realize that it is better to have something than nothing.

The honourable member for Waverley is leaving the Chamber as he knows he misquoted the Act. He issued a press release which commenced with words to the effect that a special police squad will raid people and obtain secrets. However, the Government simply copied provisions in legislation passed by the former Government. The honourable member for Broken Hill may snigger but he voted for that legislation. The honourable member for Waverley has refused to read in detail the section of the Act that made it absolutely clear that no inspections would be made of the residential part of premises. He did not refer to this matter during media interviews, he did not include it in his press release, and he avoided it during his contribution to the debate.

I do not accept in any way that there will be a secret police service doing other than what one would expect. The inspection provisions have been included for the benefit of tenants. If the tribunal requires rent records and cannot obtain them, surely it is entitled to seek them from the agent, or from the landlord if he has not specified an agent. In those circumstances the landlord's name and address would be available. Surely the tribunal would be entitled to ask the landlord for the books relating to a particular tenancy. If that is not protection for tenants, I do not know what is. The Opposition will not acknowledge that. Perhaps it would have understood if it had taken the opportunity, which it did not, of attending briefing sessions on this legislation.

I could speak at length on what Opposition members have said about this bill, but that has been covered fully by other members on this side of the House. The Government has guaranteed that it will not delay the passage of this Bill. That was not so with the previous Government. For 10 months the Opposition delayed the enactment of its legislation. Right up until the March election we were told that that legislation would be gazetted. Then we were told it would not. The honourable member for Bligh should think seriously about what she tries to do about the passage of this bill through the other place.

The delay in the enactment of the previous Government's legislation was occasioned by the Opposition's inability to decide where the Tenancy Tribunal would reside. If the Opposition blocks this legislation, it will go back into the melting pot and the tribunal will end up in the court system. I convinced the

Government that the tribunal should be a separate, specialist entity. An honourable member asked how long it would take to resolve disagreements. If the legislation is blocked, the tribunal will be back in the court system and disagreements will take longer to resolve. That will be a further consequence of any attempt to block the legislation in the upper House. I am appalled that the Opposition, having been given the opportunity of briefing sessions to enable its members to understand the legislation, would deliberately and dishonestly misinterpret the legislation. I do not know who they think they are playing to or serving. Their actions do them no justice or credit.

On the test of credit, the honourable member for Bligh continually referred to her bill. I have a copy of what she claimed to be her bill. It has CARR written all over it. That is the Campaign Action for Rental Reform—a direct take from the Cabramatta working party reform of feudal rental laws and the Sackville report. Yet the honourable member for Bligh, as a poseur, parader, and headliner, sought credit for a piece of legislative reform that was not hers. On many occasions she referred to her bill, until eventually Mr Speaker directed her not to refer to extraneous matters. I would commend anyone who drafted a bill, even if it were not accepted. However the public should be made aware of anyone who parades another group's document as her bill. The Government has worked hard on this legislation and considered it at length. I repeat that it is a starting point. The Government has guaranteed annual reviews and amendments.

**Mr Markham:** Will the Minister accept the Opposition's amendments tonight?

**Mr SCHIPP:** I have said that none of the Opposition amendments will be accepted tonight. However, if anything requires correction, the Government will correct it. Already we have accepted recommendations from the tribunal relating to the date that a service is withdrawn rather than the date that an application is made. We thought it would be unfair to people who applied for rent reductions because they lost services, and we have adopted that suggestion. The Government will accept sensible amendments as required. I shall consider further caravan and camping legislation. I have said that in writing to the association. I hope to introduce retirement village legislation before the end of this session—though I may not be able to do that in the time available. That measure will be an integral part of this legislation. If the tribunal is not established, that legislation cannot be implemented. I have given a commitment to consider boarders and lodgers next year.

Next Wednesday I shall release the homelessness report. That will be available for the public to respond to. Then I shall consider how I can assist in the provision of boarding house accommodation. Also at that time I shall release a summary of what the Government has done during the past seven months to assist with housing, particularly in the inner city area which, because of its high costs, is the tough end of the market. I believe that those who have knocked the Government will be surprised by that summary, for which I have worked for the past few days. It is an impressive list that I will present to prove how genuine the Government is.

**Ms Nori:** I am looking forward to seeing it.

**Mr SCHIPP:** The honourable member for Bligh should come along at 2.30 next Wednesday afternoon. She will be able to have her say and appear on television.

[Interruption]

**Mr SPEAKER:** Order! I call the honourable member for Bligh to order.

**Mr SCHIPP:** The honourable member for Bligh should be sure of her facts before she runs off saying what the bill is about.

[*Interruption*]

**Mr SPEAKER:** Order! I call the honourable member for Bligh to order for the second time.

**Mr SCHIPP:** I thank honourable members on this side of the House who have helped me on the housing committee. I appreciate their understanding of the legislation. I thank also the Government and Cabinet for the endorsement of what I believe to be progressive legislation that will set the foundation for sensible reform of the Landlord and Tenant Act 1899. I shall not repeat what I said earlier but it will be on the Opposition's head if it is not passed. In any event, I am proud to have brought the legislation so far in such a short time.

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

The House divided.

#### Ayes, 54

Mr Andrews	Mr Jeffery	Mr Singleton
Mr Armstrong	Mr Kerr	Mr Small
Mr Berry	Miss Machin	Mr Smiles
Mr Books	Mr Matheson	Mr Smith
Mr J. D. Booth	Mr Merton	Mr Souris
Mr Caterson	Dr Metherell	Mr Tink
Mr Causley	Mr T. J. Moore	Mr Turner
Mr Chappell	Mr Morris	Mr Webster
Mr Cochran	Mr W. T. J. Murray	Mr West
Mrs Cohen	Mr D. L. Page	Mr White
Mr Collins	Mr Park	Mr Wotton
Mr Cruickshank	Mr Peacocke	Mr Yabsley
Mr Downy	Mr Petch	Mr Yeomans
Mr Fahey	Mr Photios	Mr Zammit
Mr Glachan	Mr Pickard	
Mr Graham	Mr Rixon	
Mr Griffiths	Mr Roberts	<i>Tellers,</i>
Mr Hartcher	Mr Schipp	Mr Beck
Mr Hay	Mr Schultz	Mr Phillips

#### Noes, 42

Ms Allan	Mr Hunter	Mr Primrose
Mr Amery	Mr Irwin	Ms Read
Mr A. S. Aquilina	Mr Keegan	Dr Refshauge
Mr J. J. Aquilina	Mr Knight	Mr Rogan
Mr Arkell	Mr Langton	Mr Rumble
Mr Brereton	Mr Lovelee	Mr Shedden
Mr Carr	Mr Markham	Mr Unsworth
Mr Cleary	Mr Martin	Mr Walsh
Mrs Crosio	Mr H. F. Moore	Mr Welsh
Mr Davoren	Ms Moore	Mr Whelan
Mr Doyle	Mr Nagle	
Miss Fraser	Mr Newman	
Mr Gibson	Ms Nori	<i>Tellers,</i>
Mr Harrison	Mr E. T. Page	Mr Beckroge
Mr Hatton	Mr Price	Mr Christie

Pairs

Mr Baird	Mr Knowles
Mr Dowd	Mr McManus
Mr Greiner	Mr Moss
Mr Longley	Mr J. H. Murray

Question so resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clause 4

**Mr E. T. PAGE** (Waverley) [9.0]: I move:

That at page 2, all words on lines 12 to 14 be omitted.

The purport of clause 4 is to transfer the functions of the Fair Rents Board and the Rent Controller to the Residential Tenancies Tribunal and the functions of the clerk of the Fair Rents Board to the Residential Tenancies Tribunal. The Residential Tenancies Tribunal and the Tenancy Commissioner are the correct focal points for controlling rents. I cannot see why the division suggested by the Government should remain.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [9.1]: For the reasons given in the substantive debate, the Government rejects the Opposition's amendment. The Government is endeavouring to keep the bill as practicable as possible. Substantial benefits for tenants will arise from the new provisions. The Government has taken out the fair rents and protected tenancies provisions from the bill. We do not want the tribunal to seem as though it is a rent-controlled body. The functions of the Rent Control Board will still be administered by the Rent Control Commissioner. The Government has stated clearly why it does not accept the Opposition's amendment and we reject it.

**Mr E. T. PAGE** (Waverley) [9.2]: The Minister is concerned that the tribunal will be perceived as a rent control mechanism. That is an incorrect assumption on his part. He is demeaning and limiting the scope of the tribunal and the commissioner. I persist with my amendment that the words in clause 4 be omitted.

Amendment negated.

Clause agreed to.

Schedule 1

**Mr E. T. PAGE** (Waverley) [9.3]: I have a number of amendments to schedule 1 which I presume I should put seriatim. I move:

That at page 3, all words on lines 12 to 16 be omitted.

The proposal in the Residential Tenancies Act was that the costs of preparing a residential tenancy agreement should be shared equally by the landlord and tenant. The Government proposes that the tenant be liable for the entire cost of drawing up the agreement. At the moment that is \$25. I have been told there are moves afoot to increase that amount, which would further put an impost on the tenant. It is my view and the view of the Opposition that the preparation of the agreement is a management cost and should be borne by the landlord. I

do not agree that it would cost \$25 to draw up a standard lease agreement. It would take probably two or three minutes and I believe the cost would be \$2 or \$3, not \$25. The tenants are in a financially inferior position. At present the level of rents is determined by the capacity of people to pay. To impose a further financial burden on the tenant would be immoral. The Opposition objects to the proposition by the Government and believes the amount should remain as it was in the original bill, to be shared in equal amounts by the landlord and tenant.

**Mr MERTON** (Carlingford) [9.4]: The Government does not accept the Opposition's amendment. In the past the borrower or the tenant traditionally paid the lending or landlord's costs in a transaction. In this case the costs are a maximum amount of about \$25. Under previous legislation, which existed for about 12 years under the former Government's administration, the amount was \$62. The honourable member for Waverley conveniently omitted to tell the House that so far as the letting of premises is concerned, the owner pays the estate agent's commission. The first week's rent goes to the agent by way of commission. The Government believes it is not realistic to ask the owner of the premises to contribute to the lease costs.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [9.6]: I refute the statement made by the honourable member for Waverley that moves are afoot to increase the fee. I know of no move afoot to increase the fee. No fee increase has been sought and none is being considered. Again, the honourable member for Waverley has attempted to mislead the House and the gallery. The Government rejects the Opposition's amendment.

**Mr E. T. PAGE** (Waverley) [9.6]: The honourable member for Carlingford introduced into the debate other fees that a landlord may be charged. I did not mention that the landlord has to pay the estate agent as it was not germane to the schedule we are debating. I reiterate that the tenants are the people who can least afford to pay \$12.50. Obviously the honourable member for Carlingford, and the Minister, do not have people coming into their electoral offices to tell them of what is happening in the rental market, and terrible stories about the problems occurring. It may be easy for Government members to say that \$12.50 is a reasonable amount to pay for the drawing up of a lease. Government supporters are crying crocodile tears. That is what they think of the people who cannot afford to pay \$12.50. To Government supporters it is a joke. However, the joke is on Government members who do not know what is happening with tenants. The majority of people who come to see me about rental problems cannot afford \$12.50. The honourable member for Ryde does not care about the tenants in his area.

[Interruption]

**The CHAIRMAN**: Order! I call the honourable member for Ryde to order.

**Mr E. T. PAGE**: The cost of the lease agreement should be shared between the landlord and the tenant. Mention has been made about what happens traditionally. Legislation is all about altering things which have happened traditionally but are no longer socially desirable. That is what my amendment is all about. The people who can afford to pay on a relative scale should contribute towards the cost of the lease document. Though the Opposition will not divide on this and other amendments, it should not be thought that its amendments are not important.

**Mr CATERSON** (The Hills) [9.10]: The honourable member for Waverley is either hypocritical, ignorant or stupid.

[Interruption]

**The CHAIRMAN:** Order! There is far too much audible conversation in the Chamber. The honourable member for The Hills deserves to be heard in silence.

**Mr CATERSON:** The honourable member for Waverley is probably suffering from a combination of all three attitudes. He is talking about a payment of \$25 by a tenant. Under the current residential tenancies regulations, which have applied from 1st October, 1986, the tenant pays \$25. The honourable member for Waverley was either unaware of that or was being completely hypocritical about it. What is to happen under the present bill will be exactly the same as happens already. He did not mention what the owner has to pay, because it was not in his interest to do so. It was pointed out by the honourable member for Carlingford that the owner of a house or unit is required to pay to the estate agent who collects his rent on his behalf a certain proportion of commission which is normally, as the Minister said, one week's rent, far more than \$25 required from the tenant. This bill will not change the present amount of money the tenant is paying.

**Mr E. T. PAGE** (Waverley) [9.11]: The honourable member for The Hills said I was not interested in what the landlord had to pay. I did not say that. I said that it was not part of the matter before this House.

**Mr Caterson:** It is the same thing.

**Mr E. T. PAGE:** It is not the same thing. If the honourable member believes the two propositions are the same, it is he who is stupid. The other matter is that it is immaterial what the tenant is paying now. We are talking about what will happen in the future, and whether the tenant will pay \$25 or \$12.50. I am concerned about the proposition before the House and what the tenant will be required to pay from here onward. I am arguing against the concept that what the tenant is paying now and has paid previously should be continued, for tenants should be paying less. By and large, tenants are in a poor financial position.

Amendment negatived.

**Ms MOORE** (Bligh) [9.13]: I move:

That at page 3, all words on lines 23 to 35 be omitted.

This amendment will restore the ability to the Residential Tenancies Tribunal to hear disputes and restore the basis on which disputes can be heard. Removing the tribunal's function of mediating in disputes before breaches have occurred will force tenants virtually to breach the agreement to ensure resolution of a dispute. For example, if the tenant wishes to have a new person move into a vacant room and the landlord refuses permission, the tenant will no longer be able to apply to the tribunal for dispute resolution. Rather, the tenant will have to first prove that the person moved in without permission. Only then can the tenant go the tribunal for resolution. At this stage the tenancy may be in jeopardy. I reject the Minister's rationale that the tribunal will become clogged with unnecessary disputes if its mediation role in disputes should continue. After all, the whole spirit of the legislation should be to enshrine the notion of easy, quick, cheap resolution of disputes between landlords and tenants. Surely, it is quicker, cheaper and easier to resolve the disputes before they ever become breaches.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [9.14]: I dealt with this aspect fully in the substantive reply. I repeat: there is ample opportunity for mediation, conciliation and all the other matters that have been debated. It is obvious that the honourable member for Bligh does not care what the cost of running the tribunal might be, whether \$10 million or \$20 million. The Government is trying to confine the tribunal's work to a particular function, the breaches of the Act. There will be a tenancies commissioner to mediate on disputes, and there will be housing and tenancy advisory services to assist people in difficulty. The role of the tribunal will be to keep a breach from going to a formal hearing. The Government completely rejects this amendment. This measure is a good starting point for the work of the tribunal.

**Mr E. T. PAGE** (Waverley) [9.15]: As I said in my contribution to the second reading debate, I believe firmly that the tribunal should have the dual function of determining breaches and mediating in disputes. The Minister has said that disputes can be handled in another place, although there is no other place for that to happen. If disputes are ignored or not handled early, many will become breaches and the time saving the Minister has spoken about will not occur. If the disputes can be settled amicably before the tribunal, they will not become breaches; they will be settled more quickly. It would be less efficient socially not to deal with disputes and thus break down barriers between landlords and tenants. There will be more breaches. The Minister will not be saving the money he believes he might. Relations between landlords and tenants will be further strained. It is a false economy and will not be socially desirable.

In other parts of our social organization we have specific and extensive legislation to deal with arbitration. In the industrial sphere it is always better to prevent disputes and to make sure the parties come together before a dispute develops. In community justice centres disputes between neighbours can be sorted out. The various Attorneys General have said what an invaluable system the community justice tribunals are, for neighbours can get together to sort out their difficulties. I believe it is humane and sensible to act as I have suggested, and also economically efficient.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [9.17]: It would be easier if the Opposition were to give an example of the sort of breaches they believe would be excluded from the tribunal. They will not, because they are frightened of tripping themselves. By their ignorance of the Act, demonstrated in this debate, members of the Opposition will face the problem of citing an example as did the honourable member for McKell in her speech when she said she could imagine disputes arising because of the landlord's failure to carry out certain repairs. I remind her that it would be a breach of—

**Ms Nori**: That is not what I said at all.

**Mr SCHIPP**: Yes, you did. Section 25 imposes an obligation on the landlord to maintain the dwelling and if he does not do so that will be a breach of the Act. That is dealt with clearly as a breach, and dealt with by the tribunal. Members of the Opposition will not show their ignorance of this legislation by nominating a type of breach they believe would be excluded. If we want conciliation and mediation, that will be part of the function of this tribunal. If the honourable member for Bligh does not understand the provisions of the Act, she ought not to move an amendment to this bill.

**Mr E. T. PAGE** (Waverley) [9.20]: The Minister said that the tribunal should be about conciliation and mediation, yet he is deleting the clause that makes that possible.

**Mr Graham:** That is nonsense.

**Mr E. T. PAGE:** He said that is what he favoured. It will be in *Hansard* unless the Minister corrects it.

[*Interruption*]

**The TEMPORARY CHAIRMAN (Mr J. D. Booth):** Order!

**Mr E. T. PAGE:** The Minister said he favoured conciliation and mediation yet the clause that makes that possible will be deleted. The Minister accuses the Opposition of being stupid, of misrepresentations, and not knowing what the Act is about. The Minister does not understand the Act. The clause that he seeks to delete will deny conciliation and mediation. His is a deliberate act to ensure that no conciliation exists. The Minister seeks to create disputation.

**Ms MOORE (Bligh) [9.21]:** I refer the Minister to what I said when I moved the amendment. Because the tribunal's function of mediating in disputes before breaches occur will be taken away, tenants will be compelled to breach an agreement to ensure the resolution of the dispute. Should the Minister wish it, I shall put again the example I referred to when I moved the amendment. I am sure other members were listening, even if the Minister was not.

Question—That the words stand—put.

The Committee divided.

[*In Division*]

[*Interruption*]

**The TEMPORARY CHAIRMAN:** Order! I remind honourable members of the absolute requirement not to move during the course of a division.

Ayes, 54

Mr Andrews	Mr Jeffery	Mr Singleton
Mr Armstrong	Mr Kerr	Mr Small
Mr Berry	Miss Machin	Mr Smiles
Mr Books	Mr Matheson	Mr Smith
Mr Caterson	Mr Merton	Mr Souris
Mr Causley	Dr Metherell	Mr Tink
Mr Chappell	Mr T. J. Moore	Mr Turner
Mr Cochran	Mr Morris	Mr Webster
Mrs Cohen	Mr W. T. J. Murray	Mr West
Mr Collins	Mr D. L. Page	Mr White
Mr Cruickshank	Mr Park	Mr Wotton
Mr Downy	Mr Peacocke	Mr Yabsley
Mr Fahey	Mr Petch	Mr Yeomans
Mr Glachan	Mr Photios	Mr Zammit
Mr Graham	Mr Pickard	
Mr Griffiths	Mr Rixon	
Mr Hartcher	Mr Roberts	<i>Tellers,</i>
Mr Hatton	Mr Schipp	Mr Beck
Mr Hay	Mr Schultz	Mr Phillips

Noes, 40

Ms Allan	Mr Keegan	Mr Primrose
Mr Amery	Mr Knight	Ms Read
Mr A. S. Aquilina	Mr Langton	Dr Refshauge
Mr J. J. Aquilina	Mr Lovelee	Mr Rogan
Mr Arkell	Mr Markham	Mr Rumble
Mr Carr	Mr Martin	Mr Shedden
Mr Cleary	Mr H. F. Moore	Mr Unsworth
Mr Davoren	Ms Moore	Mr Walsh
Mr Doyle	Mr Nagle	Mr Welsh
Miss Fraser	Mr Newman	Mr Whelan
Mr Gibson	Ms Nori	
Mr Harrison	Mr Paciullo	<i>Tellers,</i>
Mr Hunter	Mr E. T. Page	Mr Beckroge
Mr Irwin	Mr Price	Mr Christie

Pairs

Mr Baird	Mr Knowles
Mr Dowd	Mr McManus
Mr Greiner	Mr Moss
Mr Longley	Mr J. H. Murray

Question so resolved in the affirmative.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [9.30]: I move:

That at page 4, all words on lines 1 to 4 be omitted.

This concerns the Government's proposition that only one tenant receive a copy of the residential tenancy agreement.

**The TEMPORARY CHAIRMAN (Mr J. D. Booth):** Order! Members leaving the Chamber must do so quietly. Those remaining must cease conversing so that I am able to hear the honourable member for Waverley.

**Mr E. T. PAGE:** The Opposition contends that each tenant should receive a copy of the lease.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [9.31]: The Government rejects the amendment.

Amendment negatived.

**Ms MOORE** (Bligh) [9.31]: I move:

That at page 4, all words on lines 5 to 27 be omitted.

This amendment will ensure that landlords provide written notice whenever they, their agents, or anyone authorized by them, want to enter rented residential premises. The Minister is seeking to remove this provision and wants to give landlords access to property on the basis of an oral agreement. Tenants will have no way of proving that a landlord has breached a residential lease if he enters premises unannounced or unexpected. The security of women and the elderly will be seriously affected. As the tribunal has no function for mediating in disputes, there is no way to resolve a dispute between a landlord and a tenant on this issue. The claim that repairs will be carried out more speedily is

unacceptable. The delay that most tenants experience is in getting landlords to undertake repairs in the first place.

**The CHAIRMAN:** Order! There is far too much audible conversation in the Chamber.

**Ms MOORE:** This amendment will guarantee privacy and security for tenants, avoid anxiety for the elderly and for women, and avoid unnecessary disputes between landlords and tenants.

**Mr SCHIPP (Wagga Wagga), Minister for Housing [9.32]:** Absolute rubbish. The Government rejects the amendment.

**Mr E. T. PAGE (Waverley) [9.32]:** I support the proposition that written notice should be given.

*[Interruption]*

**Mr E. T. PAGE:** I am appalled to hear the anti-social comments by Government members. None of them cares about tenants. To them this is all a big joke. I doubt that few Government members ever interview tenants, who are probably unable to find their electorate offices or establish when they are open. Many people in our society, a large number of them tenants, feel insecure. Pensioners, either couples or single people living alone, single-parent families, and people who have been abused as children, may be concerned about their privacy and their security. The provision of written notice is consistent with privacy and the security of the individual. Simply because a person is a tenant does not mean his rights to privacy and security should be diminished. The Government is introducing a horrendous measure. I am pleased that it did not proceed with the provision to allow other people to enter rented premises unannounced, though that was included in the original Cabinet minutes. The Government is not possessed of a great social conscience but it was frightened to introduce that amendment. It is not unreasonable that written notice should be given.

Amendment negatived.

**Mr E. T. PAGE (Waverley) [9.34]:** I move:

That at page 4, all words on and from line 28 down to and including line 5 on page 5 be omitted.

The amendments proposed to section 27 of the Act will ensure that landlords do not have to act reasonably. Proposed new subsection (2) of section 27 provides:

Despite section 133B of the Conveyancing Act 1919 or any other law, it is not an implied term of a residential tenancy agreement that the landlord shall not unreasonably withhold or refuse consent to any proposed action by the tenant referred to in subsection (1) (a) or (b).

That is an encouragement for some unscrupulous landlords to act unreasonably. This Government will not care if a landlord, who is in a strong position as an owner, ceases to act reasonably against a tenant, who is in a weak position. Landlords will know that they have the support of the Government. It is an indictment on the Minister that he dares to introduce this provision. How can a civilized society have legislation that provides that a person does not have to act reasonably? The Government is not even silent on the matter, but instructs people that they do not have to act reasonably. If this bill is passed, it will bring into law a provision that if someone does not act reasonably, nothing can be done. I know of no other legislation that contains such a provision. I know that

the Minister will waffle in speaking to my motion but he cannot justify the Government saying to people, "You can act unreasonably and our law will ensure that you cannot be charged". Will the Minister give me an answer on that?

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [9.37]: The answer is that the Government rejects the amendment.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [9.37]: I move:

That at page 5, all words on lines 7 and 8 be omitted.

This concerns the reduction from \$800 to \$500 in the amount that a tenant may be reimbursed for urgent repairs. In the Minister's second reading speech he made great play of the fact that this Government is not concerned about legislation in other States but had adapted these measures to suit conditions in New South Wales. When this matter was raised, the Minister replied that the provision agreed with measures introduced in Victoria. That shows the inconsistency of this Minister and how little he knows about the Act he is attempting to administer. Inflation is one problem with this provision. The Act will not be amended for some years, particularly with the coalition parties in office. The sum of \$500 will be reduced rapidly by inflation. I believe that \$800 is a reasonable amount to allow a tenant for urgent repairs. It provides a buffer for the future as costs escalate.

The Opposition will not oppose what it considers to be a reasonable amendment that requires the owner to nominate tradespersons to a tenant; and, if there is a problem, the tenant to contact those tradespersons. That system should work, and there should be fewer instances of tenants effecting repairs outside the agreement between the owner and the tradespeople. However, the Opposition does not understand why the amount has been reduced from \$800 to \$500, and we will oppose that measure.

**Mr DAVOREN** (Lakemba) [9.41]: I also do not understand this reduction. For some time the Government has legislated to increase fines because of inflationary trends. Yet in this measure the Government has reduced this amount for no real reason. I recall the Minister for Housing complaining bitterly about the increased cost of housing as a result of increased charges by tradespersons, especially bricklayers. I support the honourable member for Waverley in suggesting there is no logical reason for the reduction. By the time the Act is amended, by whatever government is in office, little work would be performed for \$500. Honourable members are aware that the cost of engaging any tradesperson or service person to effect repairs is high. I suggest the Minister think again about this measure and leave the amount at \$800.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [9.43]: This matter was fully canvassed during the second reading debate. This is a prescribed amount that can be adjusted as required. The Government considered the Victorian legislation and this measure is within the ambit of the Victorian bill. This measure relates to urgent repairs rather than considerable alterations. We believe that \$500 is fair and reasonable—if those words do not offend the honourable member for Waverley. The Government rejects the amendment.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [9.44]: I move:

That at page 5, all words on lines 16 to 21 be omitted.

This amendment involves notice of the landlord's address. Having received representations from tenants in my electorate, a common complaint is that the agent is difficult to talk to; the agent will not effect repairs or return telephone calls; and generally is rather dilatory. On many occasions it seems it is not the owner's fault, but for some reason the agent is inefficient or lazy. Because the agent is derelict in his or her duty, the tenant has problems. So I believe it is reasonable that the landlord should provide his address. The landlord knows about the tenant; I do not understand why the tenant should not have knowledge about the landlord.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [9.45]: The honourable member for Waverley seems to have a dirty on agents. I suggest he should lift his sights somewhat. Agents are administered and licensed under the Auctioneers and Agents Act. If the honourable member has complaints about agents, he should take them to the Auctioneers and Agents Council rather than make wild and woolly accusations. A landlord is entitled to give his name and address if he wishes to do so. Nothing in the legislation precludes that. If an owner employs an agent as an intermediary between him and the tenant, that is what he pays commission for, and there is no purpose in double dipping. The Government is legislating to encourage people to become the owners of rental property and provide increased housing for tenants. Presumably the Opposition would rather have those people languishing on the Department of Housing waiting list and not being housed.

**Mr E. T. PAGE** (Waverley) [9.46]: The Minister is either showing his ignorance or trying to draw a red herring across the path of this amendment. He knows that dilatory behaviour by a landlord dealing with a tenant would not be a matter about which one would complain to the Auctioneers and Agents Council. That is a lengthy process. If a tenant wanted to have a simple repair attended to, it would be like trying to crack a walnut with a sledgehammer to suggest that a tenant should lodge a formal complaint with the council seeking the council's adjudication on the matter. I reject the Minister's suggestion. The Opposition supports the amendment.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [9.47]: I move:

That at page 5, all words on lines 25 to 33 be omitted.

This amendment relates to reasonableness. The amendment would remove the reference to unreasonable behaviour on the part of a landlord, and remove the requirement for the landlord not to unreasonably refuse a tenant the right to sublet part of the premises. An aged pensioner may rent a two-bedroom unit and want to have her son live with her. If the landlord refuses her request and will not supply a reason, the pensioner would have no recourse. This measure would discriminate against tenants with children, Aborigines, people with disabilities, and people of non-English speaking backgrounds. It is an open invitation for discrimination and is anti-social. If the Government enacts this measure it would be tantamount to telling the public it does not have to be reasonable. No matter how unreasonable they may be, the legislation provides that no offence will be committed. That shows the philosophy of this Government, which does not care about people. Earlier the Minister said that I am against estate agents. In some cases that is true. I have a very low opinion of some estate agents in my electorate. Other agents in my electorate act reasonably and morally. I have spoken to agents about tenancy matters. One matter involved two 90-year-old women living in a block of flats, who appeared to be under threat. The agent ensured that they were not under threat and I

was happy with the manner in which he dealt with the problem. I do not have a mental block about people, such as the Government has about tenants. I adopt a balanced, reasonable view. That approach should be encouraged by this legislation. However, the Government is encouraging people to be absolutely unreasonable.

Question—That the words stand—put.

The Committee divided.

#### Ayes, 59

Mr Andrews	Mr Hartcher	Mr Roberts
Mr Arkell	Mr Hay	Mr Schipp
Mr Armstrong	Mr Jeffery	Mr Schultz
Mr Baird	Mr Keegan	Mr Singleton
Mr Berry	Mr Kerr	Mr Small
Mr Books	Mr Longley	Mr Smiles
Mr J. D. Booth	Miss Machin	Mr Smith
Mr Catterson	Mr Matheson	Mr Souris
Mr Causley	Mr Merton	Mr Tink
Mr Chappell	Dr Metherell	Mr Turner
Mr Cochran	Mr T. J. Moore	Mr Welsh
Mrs Cohen	Mr Morris	Mr West
Mr Collins	Mr W. T. J. Murray	Mr White
Mr Cruickshank	Mr D. L. Page	Mr Wotton
Mr Dowd	Mr Park	Mr Yabsley
Mr Downy	Mr Peacocke	Mr Yeomans
Mr Fahey	Mr Petch	Mr Zammit
Mr Glachan	Mr Photios	<i>Tellers,</i>
Mr Graham	Mr Pickard	Mr Beck
Mr Griffiths	Mr Rixon	Mr Phillips

#### Noes, 38

Ms Allan	Mr Irwin	Mr Price
Mr Amery	Mr Knight	Mr Primrose
Mr A. S. Aquilina	Mr Langton	Ms Read
Mr J. J. Aquilina	Mr Lovelee	Dr Refshaug
Mr Carr	Mr Markham	Mr Rogan
Mr Cleary	Mr Martin	Mr Rumble
Mr Davoren	Mr H. F. Moore	Mr Shedden
Mr Doyle	Ms Moore	Mr Unsworth
Miss Fraser	Mr Nagle	Mr Walsh
Mr Gibson	Mr Newman	Mr Whelan
Mr Harrison	Ms Nori	<i>Tellers,</i>
Mr Hatton	Mr Paciullo	Mr Beckroge
Mr Hunter	Mr E. T. Page	Mr Christie

#### Pair

Mr Greiner

Mr Knowles

Question so resolved in the affirmative.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [9.57]: I move:

That at page 5, all words on and from line 34 down to and including line 2 on page 6 be omitted and there be inserted in lieu thereof the words:

(10) Section 38 (**Rent in advance**)—

(a) Section 38 (1)—Omit the subsection, insert instead:

(1) A person shall not require more than two weeks' rent to be paid as rent in advance under a proposed residential tenancy agreement.

That amendment will clarify—

**The CHAIRMAN:** Order! The proposed amendment is out of order. The honourable member is attempting to insert amendments into the principal Act that are outside the scope of the bill.

**Mr E. T. PAGE** (Waverley) [9.58]: I move:

That at page 6, all words on lines 3 to 6 be omitted.

This amendment seeks to remove from the consideration of the tribunal, when determining rent application, work intended to be done to the premises by the tenant at a future date. An example is a tenant purchasing paint and wallpaper to improve the premises. The tribunal can legitimately take that matter into account, and it should not be excluded from so doing.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [10.0]: The Government rejects the amendment.

Amendment negatived.

**Ms MOORE** (Bligh) [10.1]: I move:

That at page 6, all words on lines 15 to 24 be omitted.

This amendment will restore the tenant's right to 14 days notice before eviction, to arrange to deal with rent arrears occurring. Although it can be argued that landlords should not be compelled to extend welfare to tenants, equally tenants should not face instant homelessness if they are two weeks behind in rent and be excluded from offering to pay by instalments. By reducing the period of notice the capacity of the tenant to remedy the arrears is also reduced. This particularly affects those on fixed incomes who may have their payments delayed from the Department of Social Security. I know of many such cases. It is unlikely that such can be remedied within seven days. For those reasons pensioners and other welfare beneficiaries may find themselves homeless due to circumstances beyond their control.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [10.2]: The honourable member for Bligh again completely misrepresents the legislation. The Government rejects the amendment.

**The CHAIRMAN:** Order! The question is, That the words proposed to be left out stand part of the bill. All of that opinion say aye, to the contrary no. The ayes have it.

**Ms Moore:** No.

**The CHAIRMAN:** The ayes have it.

**Ms Moore:** Division.

**The CHAIRMAN:** Order! I have given the honourable member for Bligh a considerable amount of latitude because she is relatively new to the Parliament, however, she must know when to call a division. The ayes have it.

**Ms Moore:** Division.

**The CHAIRMAN:** Order! The honourable member is too late.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [10.3]: I move:

That at page 6, all words on lines 25 to 30 be omitted.

A tenant, under this provision, will face hardship. Tenants will face financial burdens they will be unable to carry.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [10.4]: The Government rejects the amendment.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [10.4]: I move:

That at page 6, all words on and from line 31 down to and including line 6 on page 7 be omitted.

The amending measure means that there will be one approach to the tribunal before a tenant is evicted. Even though it can be argued that there may not be a great difference between the two propositions, I still think it is reasonable that the tribunal should be approached on two occasions rather than one before an eviction. They are two separate actions. An eviction for a tenant can be a traumatic experience. People have come to me who were traumatized by having to get out of premises by a certain date. The importance of that should be realized and the right given to approach the tribunal twice.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [10.5]: Because of the obvious misunderstanding of the legislation it is simply better to say that the Government rejects the amendment.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [10.5]: I move:

That at page 10, lines 4 and 5, the words "incriminate the person" be omitted and there be inserted in lieu thereof the words "incriminate (a) the person; or (b) if the person resides in premises under a residential tenancy agreement the person or any other person who also resides in those premises."

In my contribution to the second reading debate I spoke of my concern that proposed subsection 4 of new section 119B gives an indemnity to the tenant only. It could be that the head of the household may claim that the provision of evidence or of a document may incriminate that person, but that person's wife or children may be compelled by this legislation to provide that information. It is unfair to a family tenancy group.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [10.6]: That completely misrepresents the legislation. The Government rejects the amendment.

Question—That the words stand—put.

The Committee divided.

Ayes, 61

Mr Andrews	Mr Hatton	Mr Roberts
Mr Arkell	Mr Hay	Mr Schipp
Mr Armstrong	Mr Jeffery	Mr Schultz
Mr Baird	Mr Keegan	Mr Singleton
Mr Berry	Mr Kerr	Mr Small
Mr Books	Mr Longley	Mr Smiles
Mr J. D. Booth	Miss Machin	Mr Smith
Mr Caterson	Mr Matheson	Mr Souris
Mr Causley	Mr Merton	Mr Tink
Mr Chappell	Dr Metherell	Mr Turner
Mr Cochran	Mr T. J. Moore	Mr Welsh
Mrs Cohen	Mr Morris	Mr West
Mr Collins	Mr W. T. J. Murray	Mr White
Mr Cruickshank	Mr D. L. Page	Mr Wotton
Mr Dowd	Mr Park	Mr Yabsley
Mr Downy	Mr Peacocke	Mr Yeomans
Mr Fahey	Mr Petch	Mr Zammit
Mr Glachan	Mr Photios	
Mr Graham	Mr Pickard	<i>Tellers,</i>
Mr Griffiths	Ms Read	Mr Beck
Mr Hartcher	Mr Rixon	Mr Phillips

Noes, 36

Ms Allan	Mr Knight	Mr Primrose
Mr Amery	Mr Langton	Dr Refshauge
Mr A. S. Aquilina	Mr Lovelee	Mr Rogan
Mr J. J. Aquilina	Mr Markham	Mr Rumble
Mr Cleary	Mr Martin	Mr Shedden
Mrs Crosio	Mr H. F. Moore	Mr Unsworth
Mr Davoren	Ms Moore	Mr Walsh
Mr Doyle	Mr Nagle	Mr Whelan
Miss Fraser	Mr Newman	
Mr Gibson	Ms Nori	<i>Tellers,</i>
Mr Harrison	Mr Paciullo	Mr Beckroge
Mr Hunter	Mr E. T. Page	Mr Christie
Mr Irwin	Mr Price	

Pairs

Mr Greiner

Mr Knowles

Question so resolved in the affirmative.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [10.13]: I move:

That at page 10, all words on lines 6 to 8 be omitted and there be inserted in lieu thereof the words:

(5) This section does not authorise any person to enter—

(a) any premises that are being used for residential purposes; or

(b) if only a part of any premises are being used for residential purposes, that part of the premises, without the consent of the occupier of the premises or that part of the premises.

[Interruption]

The **CHAIRMAN**: Order! Honourable members wishing to leave the Chamber should do so in silence.

**Mr E. T. PAGE**: I explained the necessity for this amendment in debate at the second reading stage of the bill. I do not disagree with the intention of the Minister; but this matter should be clarified to prevent confusion.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [10.14]: The only confusion that exists is in the mind of the Opposition. The Government rejects the amendment.

Question—That the words stand—put.

The Committee divided.

Ayes, 61

Mr Andrews	Mr Hatton	Mr Roberts
Mr Arkell	Mr Hay	Mr Schipp
Mr Armstrong	Mr Jeffery	Mr Schultz
Mr Baird	Mr Keegan	Mr Singleton
Mr Berry	Mr Kerr	Mr Small
Mr Books	Mr Longley	Mr Smiles
Mr J. D. Booth	Miss Machin	Mr Smith
Mr Caterson	Mr Matheson	Mr Souris
Mr Causley	Mr Merton	Mr Tink
Mr Chappell	Dr Metherell	Mr Turner
Mr Cochran	Mr T. J. Moore	Mr Welsh
Mrs Cohen	Mr Morris	Mr West
Mr Collins	Mr W. T. J. Murray	Mr White
Mr Cruickshank	Mr D. L. Page	Mr Wotton
Mr Dowd	Mr Park	Mr Yabsley
Mr Downy	Mr Peacocke	Mr Yeomans
Mr Fahey	Mr Petch	Mr Zammit
Mr Glachan	Mr Photios	
Mr Graham	Mr Pickard	<i>Tellers,</i>
Mr Griffiths	Ms Read	Mr Beck
Mr Hartcher	Mr Rixon	Mr Phillips

Noes, 37

Ms Allan	Mr Irwin	Mr Price
Mr Amery	Mr Knight	Mr Primrose
Mr A. S. Aquilina	Mr Langton	Dr Refshauge
Mr J. J. Aquilina	Mr Lovelee	Mr Rogan
Mr Brereton	Mr Markham	Mr Rumble
Mr Cleary	Mr Martin	Mr Shedden
Mrs Crosio	Mr H. F. Moore	Mr Unsworth
Mr Davoren	Ms Moore	Mr Walsh
Mr Doyle	Mr Nagle	Mr Whelan
Miss Fraser	Mr Newman	
Mr Gibson	Ms Nori	<i>Tellers,</i>
Mr Harrison	Mr Paciullo	Mr Beckroge
Mr Hunter	Mr E. T. Page	Mr Christie

Pairs

Mr Greiner

Mr Knowles

Question so resolved in the affirmative.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [10.20]: I move:

That at page 11, all words on lines 28 and 29 be omitted.

Item (27) of schedule 1 to the bill will repeal the provision in the Act relating to on-the-spot fines. It will remove completely the legislation's teeth. Breaches will remain but no penalties will be provided. The result will be an unusual piece of legislation.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [10.21]: The Government rejects the amendment. On-the-spot fines are inappropriate where a relationship between landlord and tenant may continue. The Opposition's amendment would create confrontation and ill will, and defeat attempts to mediate or to settle disputes between parties. On-the-spot fines are not appropriate in this type of legislation, though they are included in other measures where continuing relationships do not exist. It is preferable that tenancy disputes are heard and decisions made. The Government hopes that most disputes will be conciliated. It is estimated that 75 per cent of them will not reach a formal hearing. I trust that the Opposition will reconsider its position in the next few days.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [10.22]: I move:

That at page 11, all words on and from line 30 down to and including line 2 on page 12 be omitted.

The Opposition disagrees with the alteration to the Department of Housing's exemptions. Tenants are better served by the existing Act.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [10.22]: The Government begs to differ. The amendments contained in this bill are superior to the Residential Tenancies Act 1987.

Amendment negatived.

**Mr E. T. PAGE** (Waverley) [10.23]: I move:

That at page 12, all words on lines 3 to 5 be omitted.

This amendment is tied up with the removal of on-the-spot fines for offences under section 131, and I have moved this motion to be consistent.

**Mr SCHIPP** (Wagga Wagga), Minister for Housing [10.24]: My earlier remarks stand. The Government rejects the amendment.

Amendment negatived.

Schedule agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

### **BILLS RETURNED**

The following bills were returned from the Legislative Council without amendment:

Human Tissue (Cornea Transplants) Amendment Bill  
Lotto (Amendment) Bill  
Sale of Goods (Amendment) Bill  
Crown Proceedings Bill  
Public Authorities (Financial Arrangements) Amendment Bill  
Treasury Corporation (Amendment) Bill  
Motor Traffic (Blood Samples) Amendment Bill  
Motor Vehicles Taxation Management (Amendment) Bill

### **SIMON UNIVERSITY COLLEGE BILL**

Bill introduced and read a first time.

#### **Second Reading**

**Dr METHERELL** (Davidson), Minister for Education and Youth Affairs  
[10.30]: I move:

That this bill be now read a second time.

The introduction of this legislation, to provide statutory recognition to the Australian William E. Simon University College and to promote and facilitate its development, fulfils the Government's election commitment to support the foundation of a private university in New South Wales. New South Wales already has a fine system of public university education. It has the largest and the oldest university in Australia. It has also the newest public university—the University of Technology, Sydney, which came into existence on 26th January this year. This week I shall be introducing legislation to establish yet another public university—the University of Western Sydney.

The Government is committed to public education, whether at the level of school education or university education. At the same time it believes that we cannot continue to expect that all educational needs will always be met from the public purse. We realize that much mutual benefit can be obtained from fruitful co-operation between the Government and the private sector in meeting the community's educational needs. I believe that increasingly our public universities will be looking at co-operative ventures with the private sector in the provision of facilities and the funding of places for students at undergraduate and post-graduate levels. The Government welcomes those possibilities and will do everything possible to facilitate them.

As part of this policy, the Government will also encourage the development of private institutions. This bill is an example of this encouragement. The Australian William E. Simon University College is a private institution and this bill will facilitate its operation. It is not an act of incorporation, because the institution will have its legal status and corporate identity established by other means. However, the legislation shows the Government's support for the venture. I should add, however, that in the preparation of this legislation the Government has been at pains to ensure that mechanisms are in place to ensure that this private college will operate with the highest academic standards.

The college will provide post-graduate studies in management and business administration—studies that are critical to the maintenance of this State's position as the economic leader of the nation. Already several of our universities provide specialized post-graduate studies in those important areas. The new institution will supplement and enrich the overall opportunities available in New South Wales to train the top ranking managers and business leaders of the future. I give credit to the management education provided in masters and doctorate programs in institutions such as the University of Sydney, the University of New South Wales, Macquarie University, the University of Technology, Sydney, and elsewhere. I believe that with academic support from a significant overseas university the Simon University College will soon have an honoured place in this company. I am confident, too, that there will be fruitful exchanges between this college and the other graduate management schools to their mutual benefit and to the advancement of the theory and practice of business administration in this State, and indeed in the nation.

The Australian William E. Simon University College is a joint venture with the William E. Simon Graduate School of Business Administration, University of Rochester, New York State. The Australian University College is a wholly Australian private institution. The University of Rochester is an independent, co-educational and non-sectarian major private university situated at Rochester in upstate New York. Founded in 1850, it comprises eight schools and colleges, including the William E. Simon Graduate School of Business Administration, and provides a range of programs from undergraduate to postdoctoral level. The university offers graduate study in some 50 fields, and about one-third of its 6 600 students are graduate students. It is one of the leading research universities in the United States of America.

In the application of the analytical tools of micro-economics to management issues and to the economy, the Simon School, Rochester, is seen as one of the leading business schools in the nation, along with the University of Chicago. The Simon School ranks third among the United States business schools for its programs and research in accounting and finance and is emerging as a world leader in manufacturing, operations and computer systems management. Rochester also enjoys an international reputation for its studies of government policies and business. The Simon School, Rochester, has one of the outstanding management faculties in the United States, with more than 50 of the faculty specifically trained in the functional areas of accounting, computers and information systems, finance, marketing, operation management, economics, statistics, mathematics and legal areas.

At Rochester campus approximately 300 full-time candidates are enrolled in the Master of Business Administration course, with another 500 part-time students. There are some 80 middle-management men and women in the executive development program and about 55 PhD candidates. The school currently offers two international programs—a joint Masters of Engineering/MBA with Keio University in Yokohama, and an MBA-executive development program at Erasmus University in Rotterdam, The Netherlands. For more than 20 years, the executive MBA has attracted middle-level managers from more than 120 United States and Canadian firms. The program has produced more than 500 graduates who currently hold leading positions at sponsoring corporations. These include the Eastman Kodak Company, the Xerox Corporation and General Motors. In 1985, the Executive MBA program was adapted to provide executive education at Rotterdam. The joint venture with Erasmus University is designed for Dutch and other European managers and is managed by the Simon School, Rochester. Managers from such firms as

Philips N.V., Mobil Oil, Mars B.V., Royal Dutch Petroleum and several international banks are currently enrolled in the program.

The Australian William E. Simon University College will commence operations with an 18-month executive MBA program. Designed for the fast-track development of managers in mid career, the intensive program requires release time for managers from their companies, and an out-of-hours commitment by the executive for class preparation. The Sydney program will meet all day on Fridays during the academic year. Executives enrolled in the course will spend nine weeks in Rochester during June and July of their first year. The unique feature of the program is the blend of off-shore, in-residence course work with the longer gestation and developed learning that is achieved in an extended degree course combined with an international quality faculty. Many Australian corporations regularly send executives off-shore for international training in six to nine week courses at business school in the United States and Europe. This will be an important part of the Simon program and will provide the opportunity for Australian executives to be in residence with their European and American counterparts in America. While most institutions content themselves with teaching courses in international business, the Simon University College will be truly international in that it will have a consistent program operating in three continents with a common full-time, off-shore component.

The university college will have the advantage of the University of Rochester's well established reputation for excellence and the availability of staff of international quality. This will establish its academic status. An important element will be the regular use of Rochester faculty and other internationally based professors in the Sydney program. The availability of such an international program in Sydney is a major innovation for companies in New South Wales. If they wish their executives to have overseas training, it will not be necessary to send them for a one to two period of full-time study. The Australian William E. Simon University College program offers an equivalent degree and training while allowing the executives to remain working in their companies.

Long-range plans for the Australian William E. Simon University College include the introduction of full-time MBA and PhD programs, hopefully located on 50 acres of land at Harrington Park, Camden, which has been generously donated by Lady Mary Fairfax. The Australian William E. Simon University College is being established through the incorporation of a non-profit association under the Associations Incorporation Act 1984. This bill will provide statutory recognition to the university college. The Australian William E. Simon University College will be an institution teaching at university level for degrees and awards of the University of Rochester. Consequently, the university college will not be empowered to offer awards of its own.

It is intended that the Simon University College will in future years be located at Harrington Park near Camden. In the interim, the State Government will be refurbishing an old officers' mess building on reserve land at Watson's Bay and designating the building as an executive training and conference facility. The facility will be managed under a four-year lease arrangement between the Simon University College and the Minister for Environment. The Simon University College will contribute substantially to the fitout of the premises. The college will be entitled under its lease to the use of the building for half of each week. It will manage the other half as a conference facility with net revenue going to the National Parks and Wildlife Service for revegetation and construction of walking tracks, safety fencing and other public facilities.

The refurbishment plan will open up the area to greater public access and will be subject to a conservation plan and usual development application procedures, and is under the general oversight of the Minister for Environment through the National Parks and Wildlife Service. The State Government is pleased that the Prime Minister has indicated his agreement to the use of the land in this manner in obvious recognition of the benefits that will eventually accrue to the community generally.

I should make clear that this bill does not make reference to the location of the college, and the future plans I have outlined are matters for consideration which do not fall within the ambit of the bill. I turn now to a detailed description of the major features of the bill. The objects of the legislation are as defined in clause 4. Statutory recognition is given to the Australian William E. Simon University College as a significant educational institution promoting the theory and practice of business administration in New South Wales. The legislation also promotes and facilitates the operations of the college, thereby encouraging the study of business administration in this State.

Clause 5, dealing with authorizations, clearly outlines the limitations that the Government considers are appropriate. First, the college is authorized to use the term "university college". Given the nature of the program it is to offer and the affiliation with the University of Rochester, this is more appropriate than simply "university". Second, it is authorized to confer degrees of or on behalf of the University of Rochester School of Business Administration. Note that clause 6 of the bill provides for the college to maintain an affiliation with the University of Rochester School of Business Administration. Third, the college is absolved from the creation of any offence under section 4 of the Higher Education Act 1988 for representing itself as a university college or by saying that it may confer a degree. Fourth, the university college is precluded from being considered as an official university or college of advanced education under the Higher Education Act 1988. Clause 7 will preclude the university college from offering any degrees other than those of the University of Rochester School of Business Administration.

Clause 9 of the bill will enable the establishment of common funds for the investment of money, thereby enabling the college to maximize returns on investment. No doubt the university college will over time attract benefactions, private support and sponsorship. Importantly, the inclusion of an investment common fund of trust money will not affect any trust to which the money is subject, and on its withdrawal from the fund will continue to be subject to the trust. Finally, clause 11 declares that, subject to this Act, the association and the trustees of the university college are solely responsible for the provision of education at the university college. Clause 12 frees the State from any liability with respect to the operation of the university college.

The legislative proposal I have outlined provides a framework for the development of an outstanding private higher education institution in New South Wales. It balances the need to promote such initiatives in the private sector without undue government regulation, while protecting the interests of the State by ensuring that appropriate educational standards are maintained. This new institution will be a major initiative for this State. It will enhance the quality of management education in New South Wales. The Government believes that such education is an essential ingredient in the economic development of this State. I commend the bill.

Debate adjourned on motion by **Mr J. J. Aquilina**.

### **BILL RETURNED**

The following bill was returned from the Legislative Council without amendment:

Motor Traffic (Driving Hours) Amendment Bill

House adjourned at 10.42 p.m.

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### **QUESTIONS UPON NOTICE**

The following questions upon notice and answers were circulated in *Questions and Answers* this day.

### **RETIREMENT VILLAGES**

**Mr LOVELEE** asked the **Minister for Housing**—

- (1) Is the Department of Housing preparing a draft bill to give the Government the power to regulate the operations of private retirement villages?
- (2) If so, when will this bill be introduced in Parliament?
- (3) How many complaints has the Department of Housing received about the operation of the Grevillia Court Retirement Village at No. 4 Wilkins Street, Yagoona?
- (4) What is the nature of those complaints?
- (5) What action, if any, does he propose regarding Grevillia Court Retirement Village?

*Answer—*

- (1) The Department of Housing has prepared a draft bill and Code of Practice for the regulation of retirement villages in New South Wales. The Government is presently considering the legislative proposals.
- (2) It is anticipated that the bill and Code will be introduced to Parliament as soon as possible, to take effect early in 1989. The codification of the rights of residents and management should assist in minimizing misunderstandings and a mechanism for dispute resolution will be available.
- (3) Complaints about the operation of Grevillia Court Retirement Village at Yagoona have been made to the Tenancy Service of the Department of Housing by Mr Lovelee on behalf of several residents.  
No complaints have been made directly to the Department by residents themselves.
- (4) The complaints related to a range of management matters claimed to affect the quality of services offered to residents.

The Department of Housing Tenancy Service made contact with the residents, however, as no resident wished to proceed to formal complaint, no further action was appropriate. The residents were provided with information relating to possible assistance available through other sources, such as the Department of Youth and Community Services and Department of Health.

(5) At this stage, at the request of various residents, no further action is proposed. The Tenancy Service would be prepared to mediate with the Grevillia Court management should residents agree.

### TEACHERS

**Mr DAVOREN** asked the **Minister for Education and Youth Affairs**—

(1) When will staffing arrangements be available for high school students from the Lakemba electorate, including the program for continuity teachers?

(2) When will guidelines be available to Metropolitan East and Metropolitan South-West regional offices regarding additional staffing for the Disadvantaged Schools Program?

*Answer—*

(1) and (2) Complete details of staffing arrangements for secondary schools in 1989 were released to principals on 22 September, 1988.

### NELSON BAY HIGH SCHOOL

**Mr FACE** asked the **Minister for Education and Youth Affairs**—

(1) When can Stage III of Nelson Bay High School be expected?

(2) What timetable will be adopted?

(3) Will this complex contain much needed classrooms and a multi-purpose centre?

*Answer—*

(1) The project is included in forward planning programs by the Department of Education. The actual timing of the work depends upon the extent of funding provided for capital works particularly by the Commonwealth Government.

(2) Once planning commences there will be a period of about 12 months to include planning, consultation and detailed documentation followed by a construction period of around 18 months in length.

(3) Yes.

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