

## LEGISLATIVE ASSEMBLY

Wednesday, 15th September, 1993

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

**Mr Speaker** offered the Prayer.

### TREASURER AND MINISTER FOR THE ARTS DEFAMATION ACTION

#### Suspension of Standing and Sessional Orders

**Mr FAHEY** (Southern Highlands - Premier, and Minister for Economic Development) [2.15]: I seek leave to move a motion to suspend standing orders and sessional orders to permit consideration forthwith of a motion to establish formal terms of reference to refer a matter to the Independent Commission Against Corruption under section 73 of the Independent Commission Against Corruption Act 1988.

**Leave not granted.**

**Mr WHELAN** (Ashfield) [2.16]: I indicate to the Premier that the Leader of the Opposition has a like resolution. Leave will be granted after question time. In the meantime I am sure that the Government Leader of the House and I can get together and draft a joint resolution.

#### Ministerial Statement

**Mr FAHEY** (Southern Highlands - Premier, and Minister for Economic Development) [2.16]: Yesterday the Parliament carried a motion requiring the tabling of documents and papers relating to civil proceedings in defamation between Peter Collins and Dr Ryan. Last evening the Minister for Health, on my behalf, tabled those documents and papers and informed the House that a copy of the file had been forwarded to the Independent Commission Against Corruption for examination on the process and review and further inquiry if necessary.

The Minister for Health made it clear to the House last night that the campaign of innuendo, the campaign of misrepresentation and the campaign of lies that was being conducted by the Labor Party, using this Parliament in a totally inappropriate way, was not in the interests of either this Parliament or of the community. The appropriate body is the Independent Commission Against Corruption. As I am sure the Leader of the Opposition and, I suspect, all members of Parliament are aware, the Independent Commission Against Corruption has this morning indicated that it has some difficulties with jurisdiction. It appears to have difficulties with jurisdiction as a result of an interpretation of the proceedings in August last year involving the former Premier.

It is clear that this Parliament is going to get a continuation of these lies and it is going to get a continuation of selected quoting of papers. It is clear also that it is in the interests of all concerned for the matter to be dealt with by the appropriate body. As a result of discussions between the Office of the Independent Commission Against Corruption and the Minister for Health this morning, and also as a result of discussions between that office and the Director-General of the Cabinet Office, terms of reference have been discussed and terms of reference under the Independent Commission Against Corruption are the matters which I

would wish to put to Parliament. That is the reason I sought the suspension of standing and sessional orders a short time ago - to allow the motion to be considered. It is obvious that the Opposition is not interested in proper process.

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

**Mr FAHEY:** The Opposition is interested only in having this matter dragged out in whatever fashion suits it so that it may continue with a process of misinformation. I regret that the Parliament is not willing to grant leave so that the matter might be dealt with as a normal process of Parliament and not in question time and so that we might deal in that time with matters that are of more concern to the people of New South Wales.

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

**Mr FAHEY:** Again, I stress that the terms of reference, which I will obviously put to the Parliament at the appropriate time, have been discussed between officers of the Cabinet Office and officers of the Independent Commission Against Corruption. I regret that leave will not be granted to deal with them in an appropriate fashion.

**Mr CARR** (Maroubra - Leader of the Opposition) [2.20]: I should like to make two immediate points. First, there will be a reference to the ICAC agreed on by this Parliament and, I offer the Premier this, that the motion can be jointly negotiated - Opposition and Government - so that it covers all of our concerns. Second, and this is the one that the Premier is trying to avoid, that debate on it will take place after question time. The Premier does not want a question time on this subject. That is what this device is all about.

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

**Mr CARR:** He talks about the performance of the Opposition. The Opposition has asked questions of him about this subject on six occasions.

**Mr SPEAKER:** Order! I call the Minister for Health to order.

**Mr CARR:** On six occasions the Premier could have delivered the material that the Minister for Health delivered, like Santa Claus, at midnight last

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night. Down he came. Santa arrived with his sack of documents and distributed them like presents. The Premier had the opportunity on six occasions over the past week and a half to make this material available. He refused every offer.

**Mr SPEAKER:** Order! I call the honourable member for Ku-ring-gai to order.

**Mr CARR:** Late last week the Minister for Health distributed a few pieces of correspondence and said, "That is all the information you want. That is all the information you get". The sackload of documents he brought down at the very last minute - chimes of midnight when he appeared - was to honour the motion carried by the Parliament.

**Mr SPEAKER:** Order! There is far too much audible conversation from the Government benches.

**Mr CARR:** One fact stands out: the Premier produced the information only when this Parliament carried a resolution telling him to do so and it appeared only at the last possible moment, as the clock struck midnight.

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

**Mr CARR:** There will be a reference to the ICAC. It will take place after question time. The terms of reference will suit the Opposition as much as they suit the Government.

## QUESTIONS WITHOUT NOTICE

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### TREASURER AND MINISTER FOR THE ARTS DEFAMATION ACTION

**Mr CARR:** My question without notice is directed to the Premier. When did the Premier become aware that the Treasurer had pressured the Director-General of the Cabinet Office to approach the Department of Health -

**Mr SPEAKER:** Order! I wish to hear the question in silence.

**Mr CARR:** - about the settlement of his defamation case? What action did the Premier take to restrain the Treasurer?

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

**Mr FAHEY:** The Leader of the Opposition and everyone else who is interested in this matter would know exactly when I became aware. They would know, of course, as a result of my releasing a statement this morning and from a file note from the Director-General of the Premier's Department. We are again getting constant misrepresentations and innuendo.

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

**Mr FAHEY:** Members of the Labor Party are constantly trying to distract attention from their own inadequacies, which is so aberrant. The statement that I issued this morning and the memorandum state quite clearly, "The request from Mr Collins to inquire if the Department of Health was giving attention to the proposal". I emphasise the word "attention"; the document does not refer to "outcome". I was made aware some time after the event that settlement had occurred in those civil proceedings. In fact, I seem to recollect that it was around the time the matter appeared in the newspaper. I was told that the matter was settled. That is all I know. I know nothing more. Quite frankly, I do not want to know anything more about the matter.

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

### PACIFIC POWER INTERSTATE COMPETITION

**Mr MERTON:** Will the Minister for Energy advise the House what progress has been made by Pacific Power to prepare for interstate competition in the electricity market?

**Mr WEST:** Yesterday the Leader of the Opposition gave his sixth response to a coalition budget. It would be apparent to those who took the time to listen that he is almost getting to like it. So he should, because he will be making those responses for a long time to come.

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

**Mr WEST:** One would think, though, that the Leader of the Opposition, after having had six goes at it, would start to get things right. Sadly, that is not the case. He talked about matters - to which the honourable member for Baulkham Hills referred - in my portfolio and he got it all wrong. The greatest joke of his entire budget response was his statement that the Labor Party would improve the efficiencies of government trading enterprises. Labor would not have a clue how to do that. In 1987, when Labor was in office, one of the trading enterprises that I am talking about - Elcom, which has now been renamed Pacific Power - returned a

dividend to the Government of \$1.5 million. That was Labor's efficiencies. In the Budget delivered this year by the Treasurer Pacific Power will be paying the Government and the people of New South Wales \$559 million by way of dividends and tax equivalents.

In the past five years New South Wales taxpayers have gained the benefits of reform in Pacific Power through cumulative dividends and tax equivalents of \$960 million. The people of New South Wales have shared that gain because that money has been used to fund the core business of government - education, health and law enforcement. For the Leader of the Opposition to say that he will improve government trading enterprises is like Alan Bond saying that he will improve the performance of  
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Channel 9, or Christopher Skase saying that he will improve the performance of Channel 7. Both Bond and Skase failed. Labor, in government, also failed. Common sense would tell us all that Labor in office would fail again. The honourable member for Baulkham Hills asked what is happening under the reform program at Pacific Power.

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

**Mr WEST:** There has been a lot of misinformed speculation, fuelled in some cases by political game playing in Canberra, which suggests that this State is not seriously committed to reforming and restructuring the electricity industry. Let me make it clear once and for all that this Government has agreed to participate in a national electricity market. It has also agreed to full separation of the generation, distribution and transmission of electricity. The Government will put in place a process that accords with the resolutions of the Council of Australian Governments to ensure that we do our part in establishing by July 1995 multiple network corporations and the national competitive market in electricity.

Today the restructuring of Pacific Power is powering ahead. As part of that restructuring, transmission assets will be transferred to a legally separate network subsidiary. It is proposed that the subsidiary will be in place by next July, operating under its own board of directors within Pacific Power's overall corporate structure. An important consideration in the establishment of the network subsidiary will be to ensure that the State is not tax disadvantaged under the new structure. A further aspect will be to achieve an acceptable form of network service pricing that will appropriately support competitive national trading. This is another step in the ongoing restructuring of Pacific Power.

Since the Government took office, productivity at Pacific Power has increased by 40 per cent, and that will keep improving. The only thing that could stop Pacific Power from getting better and better would be for Labor to gain office in this State. The move towards separate generation and distribution is in line with a decision taken in June by the Council of Australian Governments, as I have already indicated, towards establishing multiple network corporations. We will be ready to compete against the power utilities in Victoria and Queensland when the interstate market is opened up in 1995. Not only will we be able to compete and offer competitive prices, but also we will be able to win in that competitive market because of the efficiencies that we have already put in place.

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

**Mr WEST:** In addition, I have requested New South Wales electricity distributors to develop separate accounting of their distributing networks of wires and business from their other business activities. This will allow better focusing of costs; it will also allow an important step towards a competitive market. This means a better deal for the electricity consumers of New South Wales. Domestic electricity prices in Sydney are cheaper than in Melbourne, Brisbane, Hobart, Adelaide and Darwin. Internationally, they are cheaper than those in Ottawa, Singapore, Toronto, Stockholm, Los Angeles, Paris, Geneva, Brussels, New York, London, and we are about one-third of the power cost in Tokyo. This indicates clearly that Pacific Power is an internationally competitive company.

This year, in addition to these achievements and savings, the Government has been able to freeze domestic electricity prices and, more importantly, has been able to cut commercial prices. By any criteria the business of electricity generation and distribution in New South Wales is efficient. It is becoming more efficient each day. We will continue this improvement by driving prices down. The Leader of the Opposition is right when he says he wants government trading enterprises to improve. So do we. The only difference is that we have done it. We have shown we can improve these organisations and we will keep improving them. Labor never knew how to put government organisations on a commercial footing. Labor never knew how to get a return on investments.

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

**Mr WEST:** Labor never knew how to get a return on investments, to be shared by all the people of New South Wales. Labor has nothing in its Opposition policy to suggest that it has learned how to change that business approach. I conclude by saying that the restructuring of Pacific Power is continuing and the winners are the power users of New South Wales.

### **TREASURER AND MINISTER FOR THE ARTS DEFAMATION ACTION**

**Dr REFSHAUGE:** My question without notice is directed to the Premier. Did the Treasurer on radio this morning deny a claim by the Assistant Crown Solicitor that he had pressured the directors-general of the Premier's Department and the Department of Health to accept settlement? Did the Premier release a statement confirming that the Treasurer had in fact sought to pressure his director-general, Mr Humphry?

**Mr FAHEY:** I have no idea what the Treasurer said on radio this morning. I was busy doing things that are of concern to the people of this State.

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

**Mr FAHEY:** I was attending to matters about which the community is constantly expressing concern, matters which relate to the good order and government of this State. I was not sitting around listening to the radio.

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**Mr SPEAKER:** Order! I call the Minister for Multicultural and Ethnic Affairs to order.

**Mr FAHEY:** As to the second part of the question, I released a statement this morning. I have already stated that today. That statement makes it abundantly clear that when the Treasurer and Minister for the Arts spoke to the director-general of my department, he made an inquiry as to whether the Department of Health was giving attention to the proposal.

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

**Mr FAHEY:** They laugh again, they sneer, they make innuendo, they constantly try to suggest that all sorts of dastardly deeds are going on.

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

**Mr FAHEY:** At the end of all this, it will be shown that there is nothing in this matter other than a question of process. The Director-General of the Premier's Department stated that the Treasurer was concerned about it getting attention and was not concerned about, and did not raise the question of, the outcome. It would not have been right for the Treasurer and Minister for the Arts to approach health officials directly, and he did not approach health officials directly on this matter.

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

**Mr FAHEY:** He raised his concern with the head of the public service who then pursued the matter with all due propriety. This was done as Mr Humphry stated.

*[Interruption]*

Make an accusation if you want to. As Mr Humphry's statement indicates, his advice to the Treasurer and Minister for the Arts was that the matter was being considered by the department. The emphasis was on process, not the outcome.

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

**Mr FAHEY:** To suggest otherwise is just another lie, further and deliberate misrepresentation, which is all that is left for Opposition members, devoid of matters concerning the people, devoid of policy -

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

**Mr FAHEY:** - devoid of anything constructive in the way that they continue to wander around with their heads in the air, sneering.

#### **POLICE ADMINISTRATION**

**Mr GLACHAN:** I address my question without notice to the Minister for Police. What progress has been made in reforming the administration of the Police Service in this State, including putting more police on the beat, since his statements on the matter in April?

**Mr GRIFFITHS:** I thank the honourable member for Albury for his continued interest in police reform. Unlike some people inside and outside of this place who are content only to criticise the Police Service, the honourable member is genuinely concerned to ensure that constructive changes are brought about to improve police management and accountability. On becoming the Minister for Police approximately 12 months ago it became clear to me that the magnificent operational performance of our police was being let down by inappropriate command structures. The Government has clearly demonstrated its commitment to the reform of the structure of the police portfolio.

All honourable members will be aware that the Government has introduced a five-stage reform package designed to improve police accountability, integrity and management. The first stage of reform was the Premier's establishment of the Ministry for Police and the Parliament's passage of the Police Service (Management) Amendment Act. In the second stage the senior management structure of the Police Service was streamlined to clarify lines of command and control. At the same time the internal investigation of police complaints was overhauled, with an emphasis on speedy resolution of grievances. The internal affairs function was also regionalised so that line commanders are accountable in a real way for the actions of the officers under their command. No longer is discipline someone else's problem.

Both of those crucial reform stages were implemented before the House rose in May. Since that time the Fahey Government has maintained its drive to improve police accountability, integrity and management. Shortly after the House rose I announced the third significant reform: the removal of police officers from court security and prisoner escort duties. This freed more than 200 officers for allocation to frontline policing. Those officers have been allocated to areas of high need, either on beat duties in the western suburbs or to combat the increasing problem of fraud. The first group of those officers is now coming on line at the ground level and more will follow. I anticipate that this process will be completed early in the new year.

On 12th July the Police Service (Management) Amendment Act was proclaimed. From that date the Commissioner of Police became a contract employee whose performance will be monitored against a performance agreement signed by me. From 12th July a reconstituted Police Board commenced, concentrating on its core task of maintaining the integrity of police promotions. In addition, I have commissioned the Inspector General, Mr Don Wilson, to review the allocation of resources to patrols, districts and regions as well as to headquarters. The object of the review is to determine whether resource allocations for operational elements are adequate, as opposed to the allocation for staff and headquarters

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commands. Mr Wilson and a small team, including a representative of the Office of Public Management, will complete their tasks by 31st October.

The fifth and final stage of this initial police reform process will be concluded on 1st December, when a review of the preceding stages will be completed. In the meantime I expect soon to be in a position to release a comprehensive corruption prevention strategy for the Police Service. The plan will concentrate on addressing, for the first time in a structured, servicewide way, the great danger posed to the service and the community by corrupt police. Let me assure the House that to my knowledge the actual number of corrupt police is small and that corruption is opportunistic rather than entrenched. Nevertheless, to preserve the integrity of the service it is important to engage the majority of honest police in strategies designed to root out their dishonest colleagues. The Government is firmly committed to improving the accountability, integrity and management of the Police Service. We are well advanced in our reforms. There will be no wavering in the Government's resolve to ensure that operational police are fully supported by appropriate command structures and levels of resources.

#### **TREASURER AND MINISTER FOR THE ARTS DEFAMATION ACTION**

**Mr WHELAN:** My question without notice is directed to the Premier and Minister for Economic Development. Does a draft letter written by the Assistant Crown Solicitor state, "Dr Ryan may have been unduly influenced by Mr Collins"? Why was this reference deleted from the final letter sent by the Director-General of the Attorney General's Department to the Director-General of the Department of Health on 28th July?

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

**Mr FAHEY:** The honourable member for Ashfield -

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

**Mr FAHEY:** - has demonstrated once again why this matter should be down at the ICAC and dealt with properly under proper jurisdiction, which I believe this House will give to the ICAC before the day is out. I have no idea what is in that file; no idea. And I have no intention of reading the file. I am sure that Mr Temby or his officers will deal with it appropriately and in the interests of all concerned. Questions can continue, selective quoting can continue, from draft letters or whatever else the Opposition wishes. That is the very reason why last night the Minister for Health told the House that the file was being sent to the ICAC so it could be read holistically, dealt with as a complete file, and we would not have little slices of it coming out here, there and everywhere, or little file notes with all sorts of twists put on them.

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

**Mr FAHEY:** We can continue to do this. However, I point out that we are now in the fifth day after returning for the budget session of Parliament.

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

**Mr FAHEY:** To the best of my recollection, out of 23 questions that the Opposition could have asked in

that period this is the twentieth question, running around in circles, misrepresenting -

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

**Mr FAHEY:** - and throwing out the net and ignoring the concerns.

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

**Mr FAHEY:** I should have thought that honourable members opposite would have been interested in the fact that today Family Week was launched.

*[Interruption]*

Honourable members opposite are not interested in the family or in support units within their own communities?

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

**Mr FAHEY:** That is probably the case, because time and again Opposition members demonstrate that their only concern is to play the man, misrepresent, by innuendo, issues which the majority of the people of New South Wales are not really interested in.

#### **NORTH COAST LOANS REFINANCING PROPOSAL**

**Mr FRASER:** I address my question without notice to the Minister for Consumer Affairs. Is the Minister aware of complaints about a scheme operating in the north of the State which is soliciting funds from farmers for a fishing fleet in Fiji? If so, what action is the department taking on the matter?

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

**Ms MACHIN:** I congratulate the honourable member for Coffs Harbour on his interest in issues concerning the people of New South Wales, in particular, farmers. This is the type of question one might have expected to receive from the honourable member for Broken Hill -

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

**Ms MACHIN:** - rather than the repetitious and irrelevant nonsense Ministers have received in the form of questions from the Opposition.

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

**Ms MACHIN:** I am aware of a scheme operating in the north of New South Wales that involves a German who has been trying to solicit funds from farmers under the pretext of refinancing mortgages and, among other things, to start up a \$100 million fishing fleet in Fiji.

**Mr SPEAKER:** Order! There is far too much interjection and too much audible conversation in the Chamber. I ask all honourable members to co-operate in the interests of having a fair and reasonable question time and enabling everyone to hear the questions and the answers.

**Ms MACHIN:** This is a serious matter. A Mr Bernd Ade has been trying to solicit money from farmers and graziers who are experiencing financial trouble in the north of the State for the purpose, supposedly, of

forming a co-operative to benefit farmers and assist with refinancing arrangements. So who is this man? He is a bit of a mystery to the department. Is he a lawyer, an accountant or perhaps a banker? This so-called financial guru is, in fact, a dental technician - hardly an occupation that would equip him with any great expertise or experience in raising large loans. This man came to the attention of the department when the New England Bankwatch group warned the department about his activities. At that time he was arranging meetings with farmers in Brisbane and Armidale. At those meetings he would try to encourage farmers to part with \$1,350 each to join his co-operative - this would have to be one of the more expensive joining fees, I would have thought - and to fund his proposed investment opportunities.

Mr Ade sold himself as a big financial mover and shaker. For example, he informed people that he was instrumental in the sale of the local tuna fishing industry to the Government of Fiji. He told these meetings of farmers that he had approached the Fijian Government with a proposal to establish a fishing fleet in that country. He claimed that he would charge the Fijian Government \$US17 million for his services. It has been confirmed by the Fijian authorities that he has not arranged for the sale of their tuna fishing industry. The Fijian Government has requested Mr Ade to provide evidence of his ability to raise funds, however, those details have never been forthcoming. The Fijian Government has not been contacted by Mr Ade since that time. Mr Ade's solicitor has confirmed that the proposal for the sale of the tuna industry has fallen through. Surprise, surprise!

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

**Ms MACHIN:** Mr Ade claimed also that he had a direct line of credit to an international financier in excess of \$1 billion. He then encouraged farmers to provide their property deeds, which were to form collateral to gain access to the \$1 billion of credit. He then claimed that all debts of members of the co-operative would be paid and refinanced by a 10 per cent interest rate that he would guarantee. Some guarantee! It was claimed that a farmer with an outstanding loan of, say, \$1 million would be \$140,000 better off, but I suspect the only one who would be better off would be our dental technician friend. However, Mr Ade has admitted that he has not established a co-operative society. His actions in soliciting funds, therefore, are illegal. Though he has confirmed that nine farmers have invested in the scheme, the department is concerned that as many as 20 farmers could be affected.

**Mr Langton:** More detail, more detail.

**Ms MACHIN:** The honourable member for Kogarah should listen to what I am saying. It may be that one day some of his constituents could be getting burnt in a similar manner, at which time he will be running to the department for advice and assistance. After the department was contacted about the activities of Mr Ade, he was interviewed and warned, among other things, to cease misleading the farmers, to provide copies of correspondence retracting assertions that his schemes had been approved by the Department of Consumer Affairs - which they certainly have not - and to provide copies of bank cheques for refunds to those who had given him money. The deadline for this information was 5 p.m. yesterday. To this time he has not provided the details; he has claimed that to do so would cause serious damage to his business affairs. Too bad about the farmers!

Mr Ade was warned that if he did not comply, there would be no choice but to publicly warn others of his activities. All honourable members would realise that is a serious step for any Minister to take in regard to someone's business. The early intervention of the department has resulted in the cancellation of another meeting that had been planned for the first of this month. This scheme had serious consequences for the farmers involved, and possibly others that this scammer may have been caught in his net. Farmers - and indeed all consumers - should check the bona fides of any person who states that he or she can refinance loans.

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

**Ms MACHIN:** We shall keep a close eye on Mr Ade, and we shall work to ensure that all funds given to Mr Ade's company are returned to farmers. This type of snake oil salesman is not welcome in New South Wales. Such behaviour will not be tolerated. He has preyed on vulnerable people. The people he targets are

farmers in financial strife -

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

**Ms MACHIN:** - those farmers who have been stirred up by anti-bank sentiments that come largely through the League of Rights. My department will closely watch this man to make sure that such activities do not continue.

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#### **TREASURER AND MINISTER FOR THE ARTS DEFAMATION ACTION**

**Mr ANDERSON:** My question without notice is directed to the Premier and Minister for Economic Development. Did the Treasurer state at a press conference last Friday that he had, "Never, never sought a cent of public money in this case"? In November 1992 did the Treasurer's lawyers seek \$100,000 to settle the defamation matter? Has not the Treasurer misled the public?

**Mr FAHEY:** I do not know.

**Mr SPEAKER:** Order! The House will come to order. Order! I call the honourable member for Londonderry to order for the third time.

**Mr FAHEY:** And let me repeat: I have no intentions of finding out. The matter has been dealt with in an entirely appropriate manner within all bounds of propriety by officers of the Department of Health and by officers in the Attorney General's Department. It should not have come near Ministers; it did not come near Ministers; and it will not come near Ministers.

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

#### **TELECOM AUSTRALIA AGREEMENT**

**Mr KINROSS:** I address my question without notice to the Chief Secretary and Minister for Administrative Services. Has the Government gained financial benefits through its bulk purchasing agreement with Telecom Australia? How will the community use those benefits?

**Mrs COHEN:** I thank the honourable member for Gordon for his question and interest in the responsible financial management of this State. Today marks a significant occasion for New South Wales. It marks a time when I am able to provide concrete evidence of the very real benefits of the Government's telecommunications initiatives. It also marks a time when I am able to provide concrete proof that everything the Opposition has said on the subject of telecommunications has been totally without substance. Just as the Opposition has disseminated misinformation about the Government Cleaning Service, it has sought to criticise the Government's telecommunications initiatives. The honourable member for Coogee criticised our strategy at every turn. If he had his way, there would have been no single government telecommunications network and no major benefits from the era of greater competition in telecommunications. I am happy to say that the Opposition has been proved wrong about telecommunications, and the benefits of our initiatives can now be seen. I have today presented telephone rebate cheques totalling \$5.5 million to major government departments and agencies.

**Mr SPEAKER:** Order! I call the honourable member for Campbelltown and the honourable member for Broken Hill to order for the second time.

**Mrs COHEN:** The cheques represent savings from the first six months of the Government's strategic partnership agreement with Telecom. If individual government agencies and departments had separately signed

strategic partnership agreements with Telecom, they may have been able to achieve discounts of between 2 per cent and 5 per cent. The Government knew that would not be good enough and that there was no good reason that New South Wales should not benefit from our bulk purchasing power. The establishment of a whole-of-government network with bulk purchasing power has meant that we have been able to achieve savings from the strategic partnership agreement alone of approximately 10 per cent per annum.

Those savings add up to significant amounts which will directly benefit government departments and agencies. I do not know the opinions of the honourable member for Coogee or the Opposition, but I would certainly prefer to see funding going towards such things as road safety projects than being wasted through inefficient management of telecommunications. I shall detail to the House some of the projects on which those rebate cheques will be spent. The Roads and Traffic Authority advises that its \$389,000 cheque will almost entirely fund a high priority road safety project - the provision of New Jersey Barrier and Brifen fencing on Southern Cross Drive between Millpond Road and Link Road.

This section of Southern Cross Drive has a history of median crashes, including fatalities. Investigations of crashes and discussions with local police suggest that the best way to address the problem is to upgrade the standard of separation along this section of Southern Cross Drive. The rebate cheque will allow the work to be brought forward one year - it will now commence early next year and be completed before June 1994. The Department of Health intends to redistribute money to area health services or districts, with local management expected to use the rebate for one-off acquisitions of plant and equipment or the engagement of additional staff.

The department advised me that its \$234,000 rebate cheque is equivalent to funding for six additional nurses a year or three heart transplant operations. The State Rail Authority is considering spending its \$198,000 rebate cheque to assist with the expansion of CityRail's computerised information boards. Other rebates include \$462,000 to the Police Service, which is equivalent to the cost of providing 16 new recruits each year; \$242,000 to the Water Board; \$175,000 to the New South Wales TAFE Commission; and \$297,000 to the Department of School Education. The list goes on and on with a further 120 cheques to be presented this month. This money could have gone straight to the price of telephone calls and nothing else. The benefits to agencies and departments are not a one-off event. The telecommunications savings will be provided in quarterly instalments. The House should note that, with full implementation of the government network, total savings to the Government are anticipated to be \$26 million to \$30 million a year. The strategic

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partnership agreement alone will yield savings of approximately \$12 million a year, and that will be reapplied to agencies for their use in core services.

#### **TREASURER AND MINISTER FOR THE ARTS DEFAMATION ACTION**

**Mr KNIGHT:** I address my question without notice to the Minister for Health. Did a member of the Minister's personal staff meet with the Department of Health legal officer and the Attorney General about the Collins affair on 30th September last year? Was a member of the Minister's staff present when the legal officer discussed the case with the Deputy Crown Solicitor on 10th September? Why does the Minister expect this House to believe that he knew absolutely nothing about the matter?

**Mr PHILLIPS:** It is now night time in Jurassic Park and the real reptiles come out of the bog hole.

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

**Mr PHILLIPS:** This is an expensive price for the honourable member for Campbelltown to pay in order to join the right-wing - this past left-winger and supposed bombthrower.

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

**Mr PHILLIPS:** What perplexes Opposition members and what they cannot understand is that the

Government appears to be so honest about this issue. Why is that so? The Opposition is perplexed because when it was in office, and when the honourable member for Liverpool was in office, it knew what political interference was all about, and it cannot understand the Government's approach. Opposition members cannot believe that this Government would adopt an arm's-length approach to one of its Ministers -

[*Interruption*]

Let us look at an example of interference from the other side. The issue the House is discussing is why the Department of Health had to indemnify Dr Ryan. It was because of straight political interference from the honourable member for Liverpool at a time when he was the Minister for Health. It is here on paper -

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

**Mr PHILLIPS:** The Opposition quotes selectively, but here is a file letter that everyone can see.

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

**Mr PHILLIPS:** There is the file note from one of the honourable member's close advisers at the time, Ms Catty, giving a direction to the department - Ms Woodhouse - to take some action on this matter to get Dr Ryan indemnified on that matter.

**Mr SPEAKER:** Order! I call the Minister for Multicultural and Ethnic Affairs to order for the second time.

**Mr PHILLIPS:** It was that step that embraced Dr Ryan in this affair. It was that step, that political interference, that resulted in the department having to be forced to indemnify Dr Ryan.

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

**Mr PHILLIPS:** Dr Ryan has also admitted that the union movement was brought in.

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

**Mr PHILLIPS:** The union movement was there leaning on the Department of Health to indemnify Dr Ryan. That is the type of political interference that Opposition members are used to. They cannot understand that this side of the House has taken an arm's-length approach - no political interference - to this issue. It was decided, it was run by departmental officers, without any political interference.

**Mr Anderson:** That is not what the file says.

**Mr PHILLIPS:** The honourable member does not understand and does not believe it. It was the Opposition that captured Dr Ryan into this process right from the start and used him - as a member of the Labor Party and as a campaign manager at the time for one of their candidates - to try to throw a bomb at Mr Collins, but without success. Mr Collins reacted.

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

**Mr PHILLIPS:** That involvement of Dr Ryan goes right through until today, inclusive. In this morning's newspaper article Dr Ryan is once again appealing on this issue. This is where, because of the political interference and use of people by Opposition members, they do not understand that we on this side of the House do not do that. They cannot believe that we do not do it. Let me quote from this morning's *Daily Telegraph Mirror*. Referring to Dr Ryan, it said:

Just when he thought the lawyers had finally wrapped up the case, the politicians were going in for a second pound of flesh.

This next quote is serious as we decide today how to handle this issue:

I don't know what the Opposition is after . . .

I have a young family and a medical condition and I worry about what the outcome of all this will be . . . I feel like I have been used.

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

**Mr PHILLIPS:** That is how members opposite carry on. It is that interference they were accustomed to when in government and that they understand. After this matter is referred, the findings of the ICAC will prove that there is nothing to show that members

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on this side interfered in this process. It was a personal matter, a private matter, between Mr Collins and Dr Ryan. The only role the department played was that which came about as a result of action taken by members opposite. The department was forced to indemnify Dr Ryan for his costs. That is a normal process where a public servant is involved, but it was members opposite who generated that action.

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

**Mr PHILLIPS:** I heard someone ask about public money. The real issue here is who made the decision, who was responsible for it, and were they leaned on to make the decision. In the briefing paper from the director-general which was tabled in this House on Wednesday the director-general clearly indicated that he made the decision based on the department's own independent legal advice - not the advice of advisers for Mr Collins or for Dr Ryan - and for commercial reasons. Members opposite want to test if there was interference from this side of the House. The answer is no. The Opposition wants to know who made the decision. Dr Amos, the Director-General of the Department of Health, made a statement regarding the document in which he said:

Any decision reached by me was made on the basis of a recommendation from senior departmental officers on the basis of independent legal advice.

I do not know how many times we have to say that and table it in the Parliament. Dr Amos said also in his statement:

I wish to state categorically that at no stage did I have any contact with Mr Collins, Dr Ryan or their respective solicitors about the subject of their proposed settlement, indemnity or the responsibility of costs.

He is the person fitted with the responsibility as head of that department, with 34 years of service in health, four of them as director-general. He inherited this issue and has been studious to ensure that everything was done properly. This side of the House did not interfere in this issue. I did not interfere in this issue. The processes were proper and the ICAC will resolve that. Opposition members cannot understand why the Government did not interfere politically, and that is the issue over there in Jurassic Park. Members opposite cannot understand that the days of political interferences in issues such as this are over, and that the Government did not interfere politically.

#### **TREASURER AND MINISTER FOR THE ARTS DEFAMATION ACTION**

**Mr KNIGHT:** I ask a supplementary question. In view of the answer just given, what reports did the Minister receive from his personal staff member Paul Fitzgerald in the course of this case? Did he tell the Minister, or did he not?

**Mr PHILLIPS:** As I said the other day, no, absolutely no, absolutely no.

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## **TREASURER AND MINISTER FOR THE ARTS DEFAMATION ACTION**

### **Suspension of Standing and Sessional Orders**

**Mr WHELAN** (Ashfield) [3.10]: I seek leave of the House to move that standing and sessional orders be suspended to permit the Premier to move the motion he notified prior to question time, provided that speaking time for the Premier shall be unlimited, speaking time for the Leader of the Opposition shall be unlimited, speaking time for Mr Collins - if he desires to speak - shall be unlimited, speaking time for Mr Whelan shall be 20 minutes, speaking time for any other two members shall be 20 minutes, and speaking time for the Premier in reply shall be 20 minutes. Though the Opposition does not agree entirely, there are some minor amendments to the Government's legislation which the Government may indeed agree to.

**Leave not granted.**

## **PETITIONS**

### **Homosexual Vilification Legislation**

Petitions praying that the House support those schedules of the proposed Anti-Discrimination (Amendment) Bill that will make homosexual vilification unlawful, received from **Ms Nori, Mr E. T. Page and Dr Refshauge**.

### **Capital Punishment**

Petition praying that the House will enact legislation to reintroduce capital punishment in extreme cases of murder where there is absolutely no doubt that the offender committed the crime, received from **Mr Windsor**.

### **Homosexual Vilification Legislation**

Petition praying that the House not pass those sections of the Anti-Discrimination (Amendment) Bill that make unlawful vilification on the ground of homosexuality, received from **Mr Kerr**.

### **Gosford Railway Station**

Petition praying that the Government give priority to the construction of escalators and the provision of a non-slip surface, toilets and a parenting room at Gosford Railway Station, received from **Mr Hartcher**.

### **Serious Traffic Offence Penalties**

Petition praying that laws relating to road accident fatality or injury be re-evaluated, received from **Mr Mills**.

### **Main Road 504**

Petition praying that the Government make available funds in the 1993-94 Budget to repair, restructure and upgrade Main Road 504, received from **Mr Hartcher**.

### **Pyrmont Heliport**

Petition praying that the Government not proceed with the proposed central business district heliport at Wharf 8, Pyrmont, received from **Ms Nori**.

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#### **Shellharbour Public Hospital Children's Ward**

Petition praying that the children's ward of Shellharbour Public Hospital be reopened, received from **Mr Rumble**.

#### **Long Jetty Hospital**

Petition praying that Long Jetty Hospital be upgraded, received from **Mr McBride**.

#### **Gladesville Hospital**

Petition praying that the Government reverse the decision to close Gladesville Hospital, received from **Mr J. H. Murray**.

#### **Police Service Rotational Transfer Policy**

Petitions praying that the House reject any policy by the New South Wales Police Service to introduce rotational transfer, received from **Mr Face, Mr Martin, Mr Mills and Mr Price**.

#### **Berkeley Police Station**

Petition praying that Berkeley Police Station be manned on a 24-hour basis and foot patrols be introduced, received from **Mr Sullivan**.

#### **Caroline Bay Multi Arts Centre**

Petition praying that the House order the establishment of a commission of inquiry under the environmental protection Act to consider the environmental and fiscal effects of the Multi Arts Centre proposed for Caroline Bay, East Gosford, order a half-term election for the ten aldermen of Gosford City Council on 18th September, 1993, and order the council to cease expenditure on the centre until the results of the election become known, received from **Mr McBride**.

#### **Stockrington Rail Waste Dumping**

Petition praying that the House assess the proposal by Stockrington Rail Waste to dump rubbish in the Stockrington, Minmi, Seahampton, Butti area, received from **Mr Price**.

### **JOINT SELECT COMMITTEE UPON WASTE MANAGEMENT**

#### **Report**

**Dr KERNOHAN** (Camden) [3.17]: I bring up and lay upon the table of the House the report of the Joint Select Committee upon Waste Management.

**Ordered to be printed.**

**Dr KERNOHAN**: I also bring up and lay upon the table the minutes of evidence taken before the committee. I move:

That the House take note of the report.

I can only surmise that I was appointed Chairman of the Joint Select Committee upon Waste Management because of my 18 years' experience as an alderman on Camden Council, which has the Jacks Gully landfill - a regional waste facility controlled by WRAPS - within its boundaries. I thought I knew something about the disposal of household and council garbage until I chaired this committee and discovered that waste management in the 1990s is very different from that of the 1970s and the 1980s. Indeed, the comparison can be that of a computer to an adding machine.

The issue at hand is not really waste disposal; rather, it is resource management, that is, the efficient and effective management of our finite and renewable materials to minimise waste and to ensure that the greatest possible stock of environmental capital is passed on to our children. Thus, we must redefine our production and distribution systems to value conservation of resources and to ensure that the materials we extract from the environment, and ultimately put back into it, are minimised. My method of ensuring this is to adopt the cradle-to-grave philosophy, which was the subject of much discussion and had some support within the committee and reference groups. This concept requires that manufacturers of all products, not just packaging materials, ensure that their products are safely managed throughout their life, whether they are ultimately disposed of or recovered and reused.

**Mr SPEAKER:** Order! There is far too much audible conversation in the Chamber. I call the honourable member for Lakemba to order.

**Dr KERNOHAN:** Cradle-to-grave responsibility requires manufacturers to support recovery and disposal schemes, to ensure that they are efficient and financially viable and to place financial responsibility for materials management with industry. I believe that the current level of waste production and disposal are ecologically unsustainable. However, the application of any far-reaching strategy based on such a fundamental change as cradle-to-grave responsibility for materials must be considered in the context of establishing an overriding demonstrable assurance that such a strategy is sustainable in terms of balanced economic development and environmental welfare.

Society can ill afford a waste management strategy which is based on feel good principles and not on sound, measurable environmental and economic argument. It would be extremely unwise to follow such a strategy until the long-term effects of the German dual system, particularly on international markets for recyclable materials, are observed. There was much discussion over the benefits of the carrot and stick approach versus mandatory legislation. The former has been generally adopted with the full knowledge that legislation is available if this approach fails to minimise waste.

Recycling or recovery of materials from the waste stream costs money and only some of the materials recovered can currently be sold at a profit. The recycling of certain materials is subsidised by the collection of higher value materials and many council kerbside collections operate at a loss. However, the adoption by the public of recycling is the educational success story of the 1990s. To speak against it is virtually sacrilege. Metaphorically speaking, it could be said that Sydney could smother under a mountain of garbage unless something is done about minimisation of waste. Metaphorically speaking, that

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is true. But unless viable, sustainable markets are found for various materials Sydney could be smothered by a number of smaller mountains of very expensively collected recyclable materials.

**Mr SPEAKER:** Order! Members wishing to conduct conversations will do so outside the Chamber.

**Dr KERNOHAN:** I believe that industry must contribute to waste minimisation by voluntarily researching markets and uses for the recyclable materials it originally produces. Where reuse of such materials is possible industry should maximise this in current production. Anything is possible in today's society, at a cost. The basic question in waste management today is: Who pays? Everyone has differing thoughts about

this. Some people suggest that a particular group should be responsible for paying; for example, State government, local government, industry or consumers. Others suggest a mixed responsibility for costs between two or more of these groups. Bear in mind that, no matter which group is nominated, the New South Wales consumer will pay for waste disposal, either through taxes, rates and charges or the price of an article.

A criticism of this report could be that it fails to address rural waste issues. I was very disappointed that the committee received so few submissions from rural councils, particularly those facing unique problems due to small populations. Hence the report was written specifically to allow flexibility for rural regions. It was recognised that what is essential to the management of waste in metropolitan Sydney may not be relevant to a small country town with a population of 2,000 and a surrounding farming community currently facing mortgagee sales of their homes and livelihoods. The Joint Select Committee upon Waste Management is unique in the history of this Parliament in that it was allocated two reference groups: the community reference group and the local government reference group, with each of whom it should consult and whose opinions it should note. A request from the original community reference group to be split into two separate groups because of differing opinions made it obvious that there would be many formal groups and individuals with differing philosophies. It would have been a miracle if such varying philosophies could have agreed on a single plan of action for waste management in New South Wales.

The choice of a local government enterprise as the waste controlling authority was made due to the belief that local government was best suited to this task because of its traditional responsibilities for waste disposal, its planning knowledge and experience and, more importantly, its close relationship with local communities. Such an activity would give local government increased status and recognition as the third tier of government in Australia. The rationale for waste minimisation to remain with the State Government was based on the expertise of State government agencies in dealing with industry groups and the power of State Government to legislate where necessary. Current legislation permits local government to site and control waste management facilities. Throughout the deliberations of the committee the local government reference group stressed that waste management was a joint problem which must be shared by State and local government. In its written reply to recommendation 30 of the report the local government reference group stated:

The model of a Local Government Business Enterprise proposed in this report is rejected. The State Government cannot abrogate its waste management responsibilities to Local Government, for no other reason than Local Government not having the power to introduce legislation necessary to effectively minimise the generation of wastes. Only by conferring the powers of Parliament onto such a body to create the necessary laws would Local Government be prepared to consider such a model.

The proposed scenario for a new waste authority is the only one that will equitably share the problem between State and local government according to expertise and will ensure accountability for each tier of government's respective responsibilities. For example, the State Government endorsed the 50 per cent waste minimisation Australia and New Zealand Environment Conservation Council agreement and thus should be responsible for ensuring that waste minimisation occurs. I believe in the accountability of elected governments for their actions.

In this report there were 47 recommendations. Committee members agreed on 27 of those recommendations. Everyone agreed that the avoidance and minimisation of waste at its source was essential, but there were differences of opinion about the best way to achieve this. There was general agreement on guidelines for community consultation. There was unanimous agreement that all facilities that store, treat or dispose of putrescible or non-putrescible waste should be classified as designated developments. It was agreed that a set of criteria be established to identify areas considered too environmentally sensitive for specific waste disposal activities.

It was agreed that the Government Pricing Tribunal should review the effects of any changes in prices for landfill disposal. It was also agreed that a set of industry standards and minimum performance standards for operators of landfill sites be developed. There were differing philosophies on the role of government: a big stick, big government or a carrot and stick government. A number of things could not be agreed upon, but there were two mandatory recommendations. One of these was that composting be strongly encouraged and

that the mandatory exclusion of garden waste from landfill should occur from January 1997. [*Time expired.*]

## TREASURER AND MINISTER FOR THE ARTS DEFAMATION ACTION

### Matters for Urgent Consideration

**Mr FAHEY** (Southern Highlands - Premier, and Minister for Economic Development) [3.27]: My motion, of which urgent consideration is sought, will be as follows:

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That this House refer the following matter to the Independent Commission Against Corruption for investigation: the commission investigate and report to the Parliament as to whether the procedures "followed in reaching the settlement in the case of *Collins v. Ryan*" were acceptable having regard, amongst other things, to practices and procedures in the public sector and whether any improper influence was exercised by any person or persons in this process.

Earlier today I indicated to the House that I would bring up this matter for urgent consideration to deal with a motion which, generally speaking, will cover a reference to the Independent Commission Against Corruption to look at the practices and procedures relating to the defamation case between the Treasurer and Minister for the Arts and Dr Ryan. That motion will clearly give jurisdiction to the ICAC. A doubt was expressed this morning by the ICAC as to whether it had jurisdiction following the determination of the Court of Appeal in the case last year relating to the former Premier.

The Opposition is not prepared to allow this matter to be dealt with in the proper fashion by the proper authorities because it wants to continue to obtain little pieces of paper, play the game of misrepresentation and peddle lies in the best possible way by simply using pieces of paper as and when it sees fit. The thing that upsets some Opposition members is the fact that last night, in the process of providing those papers in accordance with the motion that was passed by this House, the Minister for Health indicated that the papers had been made available to the ICAC. Unfortunately, that spoilt the game for them. Anyone who has been in the gallery for the past five sitting days of this Parliament and anyone in the community who has been following this matter would recognise that this whole sham is designed to destabilise the Government. The Parliament is being used and abused by the Opposition for base politics, not for the good order and government of this State.

Even Dr Ryan made that abundantly clear in his comments in the media this morning. He said that he had been hounded and abused by members of the Labor Party - just as they are abusing this Chamber - in their fishing expedition. Opposition members are not happy with simply throwing out the net and hoping that it will come in; they want to drag the whole matter out to the nth degree to obtain maximum mileage in their destabilisation campaign - a campaign that has been going on for some time. I moved this motion today to give jurisdiction to the ICAC. The terms of that reference, which are included in the motion, have been the subject of discussion this morning between officers of the ICAC and Cabinet Office.

It is a case of giving jurisdiction to the ICAC, the appropriate body, to look at the process and the procedure and to report back to Parliament. All will have an opportunity, when it comes back to Parliament, to consider the outcome and to deal with the matter on the basis of a proper perusal, a proper investigation, a proper inquiry - not on the basis of the selective political fishing expedition that we are seeing here day after day and which is not in the interests of the people of this State. As my colleague the Minister for Health said earlier

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**Mr Carr:** My intended motion is about time limits for speaking.

**Mr FAHEY:** You will get your chance. Judging by the games you continue to play you have obviously nothing else to do with your time.

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

**Mr FAHEY:** The motion that I have put before the House is specific. The motion that the Leader of the Opposition will speak to now simply says: let us get the thing to the ICAC. Why cannot we get it to the ICAC on the basis of what officers of the ICAC have discussed with the Cabinet Office? Why cannot the Opposition agree with that? It is because it is not part of the game; it is not part of this game that the Opposition is playing. It ought to be abundantly clear to all honourable members what is going on here. I ask that the matter go to the ICAC, as the Government sought to do last night, so that it can be dealt with properly in the interests of the people of this State, and the ICAC can report its findings, clear of all politics, for further consideration of this Parliament. I ask the House to support the motion that I will move.

**Mr CARR** (Maroubra - Leader of the Opposition) [3.31]: The question that the ICAC will investigate is how much he got and why he got it; how he can justify getting it; how much he can get of taxpayers' money and how he can justify appropriating it. It is only a minor amendment that my motion will represent, but it will have this difference - under the Government's proposal, if carried, the Premier will be limited to 10 minutes in speaking to this matter, I will be limited to 10 minutes and other speakers will be limited to five minutes.

**Mr SPEAKER:** Order! There has been considerable interjection from both sides of the House. All members of Parliament have had to tolerate that. The Leader of the Opposition is quite capable of carrying on. Order! I call the honourable member for Davidson to order.

**Mr CARR:** That is the proposal from the Premier. He and I will be limited to 10 minutes each; other speakers will be limited to five minutes. That is not only unfair to the ICAC, which received a pile of documents only this morning, but also it is unfair to the Independents, who will want to have a say in this matter. It is unfair, above all, to the Treasurer, who might conceivably want more than five minutes to justify his egregious behaviour.

**Mr SPEAKER:** Order! There is far too much interjection from the Government benches and from the Opposition benches. If this matter is to continue, as it probably will, for some time, I am sure all honourable members will want to be present to vote on the various questions as they arise. I ask all honourable members to exercise decorum and to allow the debate to continue in a proper and orderly fashion.

**Mr CARR:** Those time limits are clearly unfair to the Parliament; specifically unfair to the Independents; unfair to the Treasurer, with all the

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problems he has in explaining his behaviour at this time; and unfair to the ICAC, which deserves more than the pile of documentation that was found at midnight. That is why my foreshadowed motion should be supported. This is only the second such reference made under the ICAC legislation, only the second time since the ICAC was established in 1988 that the Parliament has made a reference. The other occasion was the Metherell reference, and on that occasion I and former Premier Greiner had unlimited time to speak. The honourable member for South Coast and his supporters, the two other non-aligned Independents, had 20 minutes to speak. Above all, we are looking forward to hearing a full explanation on this matter from Sergeant Schultz over there. Honourable members will remember "Hogan's Heroes" and Sergeant Schultz and his constant statement: "I know nothing about this matter". For five days we have heard from the Premier, "I know nothing about this, I know nothing." He does not know what is happening in his own Government.

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

**Mr CARR:** There has never been a Premier more out of touch. Can members imagine former Premier Greiner coming in here and saying about anything, "I know nothing about it." What a contrast between Greiner and Fahey. What a damning contrast, an absolutely damning contrast.

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

**Mr CARR:** No wonder no one is noting it more avidly than loyal old Bruce - Bruce over here in the corner taking careful note. Let the matter be fully debated, let all the arguments come out. Let the Treasurer get on his feet and defend himself. Give him 20 minutes to do that, give the Independents 20 minutes, give the Premier the half hour he will need - and he will need every minute of it - to explain that throughout this affair he knew nothing, he did nothing, he was deaf to all that was taking place.

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

**Question - That the notice for urgent consideration of the honourable member for Southern Highlands be proceeded with - resolved in the affirmative.**

### **Suspension of Standing and Sessional Orders**

**Motion, by leave, by Mr West agreed to:**

That so much of the Standing and Sessional Orders be suspended as will permit debate on the matter for urgent consideration being treated as a debate on a substantive motion.

**Mr Whelan:** Mr Speaker, I wish the Government had acceded to the request that I indicated -

**Mr SPEAKER:** Order! There is no debate on the motion.

### **Motion**

**Mr FAHEY** (Southern Highlands - Premier, and Minister for Economic Development) [3.38]: I move:

That this House refer the following matter to the Independent Commission Against Corruption for investigation: the Commission investigate and report to the Parliament as to whether the procedures "followed in reaching the settlement in the case of *Collins v. Ryan*" were acceptable having regard, amongst other things, to practices and procedures in the public sector and whether any improper influence was exercised by any person or persons in this process.

What this Parliament needs to determine this afternoon is the jurisdiction of the ICAC to deal with the question of process, the question of practice, the question of procedures, because during the course of five days' sitting in this Parliament, despite all the running around the press gallery the Leader of the Opposition and his henchmen have been doing, there has not been one accusation of substance against any member of Parliament or against any senior public servant. There is no accusation there, there is no allegation there. What is there relates to private proceedings brought by a citizen of this State in a private capacity. The fact that that citizen also happens to be a Minister in this Government is irrelevant. It was irrelevant when he brought the proceedings.

We are seeking to come to grips with, and we are seeking the assistance of the ICAC in ascertaining, whether or not the practices and procedures surrounding this case have been dealt with properly. The Government is happy to co-operate to ensure that that process is right, to ensure that the officers in the Department of Health, the officers in the Attorney General's Department and all other people who are party to these proceedings on the question of process, dealt with the matter in a proper fashion. It is not a case of going back over the Supreme Court proceedings. It is not a case of asking "Should defamation proceedings have been brought, or otherwise?" It is not a case of revisiting the proceedings in the Supreme Court. It is a case of whether the procedures and the practices are correct.

We are seeking to take this action to overcome the difficulties expressed by the Independent Commission Against Corruption this morning, and we are seeking to do that with the support of the Parliament for that purpose - not to throw the net out as Labor has been doing for the past five sitting days in the past two weeks, but to allow the body that was established by this Parliament to make due inquiry, to make inquiries properly, and to do so clear of the politics that are abundant on the other side of the House. Following the reference of the file to the Independent Commission Against Corruption last night the commission indicated this morning

that it has some doubts as to its jurisdiction. Those doubts are contained in a media statement that I believe has been given to all members of Parliament for the purpose of ensuring that there is full disclosure of the difficulty the ICAC perceives itself to be in. That media statement says, amongst other things:

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Subject to reviewing the material in detail it appears that the Commission would have jurisdictional difficulties in undertaking an investigation of the events surrounding the settlement of the defamation action.

Let us remove the doubts. We put the matter to the ICAC; we gazed upon Labor when it thought it could get hold of this and string it out further. Opposition members thought they could use the single fishing line without having to throw out the net and drag it all back in. They thought they could selectively pull out pieces of paper, put the old slant on it, get the spin doctors going and make the whole thing work for them so that they could cover up their own inadequacies as a political entity in this State. That is what has been demonstrated in the course of the past two weeks. We have seen a cover-up of the political inadequacies of the Leader of the Opposition and his friends. One really knows that he is in trouble when one sees demonstrations such as we saw earlier: he has to go back to the days when he was on the stage. He started to go on with baby talk on the basis of some programs that may or may not have been his favourites in those days. When he has nothing else to say he reverts to that behaviour each time.

This motion does not require a full debate, because the appropriate body will deal with the matter, as it should, and report back to the Parliament. If, as a result of that inquiry, matters arise that require a full debate, I undertake here and now that all the time in the world will be given by the Government, with the support of the Parliament, for a full and proper debate at that time. That is the time to do it. We do not know what is in the file. I have said that I do not; members of the Opposition do not, unless they have spent the entire night canvassing the file. They may well have done that. They may well believe that they are more capable of dealing with this matter than is the ICAC. If that is the way they feel, I invite them to say so in this debate.

When the matter is dealt with in a proper fashion by the appropriate body, there will be an opportunity, having regard to the recommendations and findings after due inquiry, to have a full debate. It is not within the power of the Parliament to examine any of the witnesses or even to talk to them. It is not within the right of honourable members to do so. It is within the right and the jurisdiction that we will be granting to the ICAC today to do that, if there is a doubt about what the file notes say or do not say. If there is a particular reason to question what is in them, let that be done by the appropriate body, the officials appointed by this Parliament to do just that. As the ICAC is an instrument of this Parliament, the report will be made to the Parliament to be dealt with appropriately.

There is no need for a full debate today, because all that can be achieved is another attempt by the Opposition to throw the net out and to put opinion into the debate, to put a slant on it and to put forward a particular version, for whatever political reason. Over the past few days many different political reasons have become apparent, in the Opposition's attempt to destabilise. I hope that the Parliament understands that the Government has indicated clearly that it has absolutely nothing to hide in this matter; there is absolutely no reason why any doubts should not be removed by the proper process. We are giving the jurisdiction sought by the ICAC itself because of its doubts. We have been upfront; we have been honest. We have demonstrated that time and again on this issue. We demonstrated it last night and have demonstrated it again today. All we have seen is a charade, in an attempt by Opposition members to drag out the whole process. This matter could have been dealt with very quickly. Ample opportunity was available to allow the report to come back to the Parliament with all the information that members of Parliament would require to deliberate on and deal with the issues properly.

I have no difficulties with members taking the time they require today to debate the motion. I say simply that this is a matter that involved private proceedings. The role played by government agencies or people associated with the Parliament and the Government of the State related to questions of practice, process and procedure. I have not heard one accusation or allegation suggesting anything to the contrary. I do not know

whether the actions of Opposition members are about putting doubts in the minds of people, about Richard Humphry - the Director-General of the Premier's Department - or about Dr Amos and whether he is above-board. I do not know whether this is about the officers of the Attorney General's Department, the legal officers of the Department of Health or any other parties in between. I do not know whether it is about Dr Ryan himself, who has indicated clearly that he has been hounded and abused by Labor on this matter. What we need to do is to take away the climate that exists in this place, to remove the abuse of the processes that have occurred and to get this issue into the right forum, where it will be possible for there to be a dispassionate examination of the file and further inquiry into the matters revealed following that dispassionate and impartial examination.

The motion does not require lengthy debate. I have no intention of canvassing the entire facts for a simple reason, which I shall repeat, because obviously statements have to be made several times before they sink into the mind of the Leader of the Opposition: I have not looked at the file; I will not look at the file; it is not appropriate for me to look at the file; and I have no intention of spending time on it. I have no difficulties with the ICAC dealing with the matter. As an institution the ICAC deserves the support of the Parliament. It should not be tampered with in a debate of this nature. If any Opposition member has any doubts about whether the ICAC can deal with this matter appropriately, he should say so in the debate, stop playing silly games and allow us to get on with the business of the Government and of the Opposition in this State: the concerns in the daily lives of the people of New South Wales.

This matter is not a concern in the daily lives of the people. If it becomes of concern, that will happen only after due inquiry by the appropriate body and

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when the report comes back to Parliament. When that happens full time will be allowed to anyone who wishes to debate the matter at that stage, when full knowledge of the facts is available. I restate the fact that this motion has been discussed between officers of the Cabinet Office and officers of the ICAC on the basis of the concern and doubts expressed about jurisdiction. There ought not to be any conjecture; there ought to be a prompt reference to the ICAC so that we can move on to deal with matters of substance requiring the attention and concern of all honourable members, not just those on this side of the House, who have demonstrated time and again that they are prepared to deal with the issues that concern their constituents.

All members of the House should stop these games, which suggest that we are incapable of dealing with the substantial issues that are affecting the lives of people. Destabilising government can have an enormous effect on the people of the State. That has happened in Canberra as a result of the Federal Budget. I do not want that to be repeated here. I can only believe that is what the Opposition is about in asking question after question to spin out the yarn. Let us get away from the yarn and get to the facts and to matters of substance. Let the proper body deal with this matter. If issues arise that require the attention of the House, the Government will ensure that they get that attention. I commend the motion to the House.

**Mr CARR** (Maroubra - Leader of the Opposition) [3.48]: Only one interpretation can be made of that speech: Collins dumped! Not a defence of the Treasurer, not a word in defence of him. The Premier did not mention the Treasurer once in his contribution. No wonder the midday news reported today that the Premier had distanced himself from the Treasurer. No wonder that is the line in the media. The Premier wants nothing to do with Mr Collins and does not see his defence as part of his job or of the Government's job. That is the interpretation that must be placed on the Premier's speech.

The overriding question is why the Treasurer got public money. The whole issue at stake here is: How did the Treasurer's private liability in a defamation action become a public liability? How did losses in a private defamation action become part of a charge on the taxpayers of this State? How did he shift responsibility for his losses in a private defamation action from his bank account to the public Treasury. The Premier did not attempt for one moment to answer those questions, nor did he explain or defend the behaviour of his apparently errant Treasurer. This whole affair confirms the profound doubts about the leadership of John Fahey. How much he knew, how much he did, when he knew it -

**Mr Phillips:** Come on! Innuendo again. Sleazebag innuendo, that is all it is.

**Mr CARR:** I will get to you in a moment. I suggest you settle down and wait. When the Premier knew it, when he did it, how much he knew and how much he did - these are the questions. And they will be answered by a comprehensive ICAC investigation. My own view is that the Premier will not be able to avoid appearing and answering questions along these lines.

**Mr Humpherson:** He will be there.

**Mr CARR:** The honourable member said he will be there.

**Mr Humpherson:** Anderson I mean.

**Mr CARR:** We have had it confirmed from the Government that the Premier will be appearing.

**Mr Phillips:** On a point of order: The Leader of the Opposition obviously misheard the honourable member for Davidson. He was referring to Peter Anderson, the honourable member for Liverpool, not the Premier.

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

**Mr CARR:** We know that for a week and a half the Premier connived in the snivelling evasions of the Minister for Health. Let us have a look at what they have been saying in question time day after day. On 7th September the Minister for Health said, "I had absolutely nothing to do with any of the processes, decisions or information". He was contradicted by the material that came out today - material that proves he was lying to the House.

**Mr Phillips:** Selective quoting. It is outrageous.

**Mr CARR:** Was this a selective quote - this file note dated 27th July of Miss Caroline Marsh, senior legal officer in the Department of Health?

**Mr Phillips:** On a point of order: The Leader of the Opposition indicated that I lied to the House. I did not lie to the House and he has no right to say that I did. I ask for that comment to be withdrawn.

**Mr Whelan:** On the point of order: I do not wish to trifle with the House but the honourable Minister surely knows though it is objectionable for one member to refer to another member as a liar, there is nothing objectionable about the words, "You have lied".

**Mr SPEAKER:** Order! There has been a remarkable relaxation regarding references to lies, lying and liars in the years since I became a member of this House. I think it has been a deplorable trend. Though the point made by the member for Ashfield is generally correct, I ask the Leader of the Opposition to temper comments and references that could lower the tone of debate considerably.

**Mr CARR:** The facts speak for themselves. Let me quote the facts from the material released, reluctantly, by the Minister for Health last night. He waited until after 11 o'clock last night to release it. And is it not any wonder? I read a file note of 27th July: "Re conversation with Paul Fitzgerald - Brimaud has made many calls to Fitzgerald". Who is Fitzgerald? He is the health Minister's personal staffer. Who is Brimaud? He is the Treasurer's

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solicitor, and there were many calls to him. I am quoting from a file note of 27th July by Miss Caroline Marsh, senior legal officer in the Department of Health - a file note that records vehement representations from the Treasurer's solicitor, who, incidentally, has made the chair of the Powerhouse Museum. I believe he attends meetings without reading his notes or any of his papers. So much for the pleas of the Treasurer and the

Minister for Health that they remained at arm's-length. The health Minister's staffer was taking calls from the Treasurer's solicitor about this matter, yet the Minister pretends he was told nothing. If that is true, what a personal office!

Throughout the Premier has said, "I think the Minister for Health has given a comprehensive account of this matter on a number of occasions". He boasted, when he released a couple of scraps of information last week, "He has released every bit of information about this matter - every relevant paper". The lie to that was given by the Santa's bag of documentation he started distributing when he came down the chimney last night. The basic claim by the Treasurer was that he never asked for a cent from the public purse. He said as much at his press conference on Friday. Indeed, at every interview he said he never sought a single cent from the public purse. We now know that in November last year he sought \$100,000. Did he forget that? Did he not tell the Minister that? Is the Minister lying about that? The Minister should answer that when he speaks, but until then he should shut up.

This morning the Treasurer emphatically denied that he had pressured the Director-General of the Department of Health and the Director-General of the Premier's Department. That was until the Premier dropped him right in it at his press conference. You have never seen anyone dump a colleague as fast as John Fahey dumped his Treasurer. At the press conference at lunch time today he was moving from him so fast he was like greased lightning. The Treasurer is being set up; he is being dumped. When the Premier spoke a moment ago not once did he utter a word in defence of the Treasurer. The Treasurer said that the Department of Health decided to finally settle the case because, on all the legal advice it had, he would win. That has been his defence for five days. For five days we were told that the legal advice was that the Treasurer would win on appeal.

The Minister wants me to avoid using the word lie so all I shall say is that he misled the House mightily on those occasions because the documents reveal that advice in the department's possession was a mixed bag, so much so that the department's senior legal officer wrote not once but twice that she was still not convinced to settle. Was any of that mentioned to us in the last five days? Did the Treasurer get up and in the spirit of candour which he pretends to embrace say, "I have to be honest with the House. There is in fact advice from legal officers in the department along these lines"? Did we ever hear that? Did we ever hear anything like that? And he talks about the Opposition being misleading and selective.

Let me return for a moment to the Premier, whose spirited defence of his Treasurer is still remarkable. Here is a Premier who allows his department head to be heavied - or in the words of the public servant, pressured by another Minister. The Premier maintains that his departmental head made no mention to him of a matter as politically sensitive as the hand-over of public money to fund losses in a private defamation action. Here is a Premier who consciously and deliberately has allowed this issue to run for almost two weeks and has provided none of the information to this House that would have satisfied the legitimate concern in this House about the key question of public money shoring up private loss in a failed defamation action. Here is a Premier who, by a motion of this House, was compelled to make available all the documentation, though he protested every inch of the way.

If on Tuesday last week the extent of the information in the files had been indicated by the Minister or by the Premier, they would have nothing to complain about now. The Independent Commission Against Corruption reference would have occurred last week. Is it not the same with every scandal that envelopes this Government? To the last minute it resists the candid response to concerns that would quell a controversy at the very start. Members of the Government are left screaming and protesting as they are dragged kicking and screaming to an honest resolution. It is all a reflection of the lack of leadership by this Premier - the jittery, scruffy lack of leadership that is his hallmark.

The documents are now in the public domain. The media are analysing those documents and relating the contents to the public. The community is concerned that if John or Joan Citizen loses a private defamation action, he or she will be responsible for all the costs. The public is concerned that taxpayers' funds through one device or another have been used to pick up the bill for the Treasurer in a lost private defamation action. That

is what this matter is all about. I will not detain the House by quoting at length from the documentation. It is in the public domain; it was dragged out of the Government yesterday. One thing I must say about the Premier's lament that this matter is being debated in the Parliament: Does he forget the Metherell affair, which brought him ill-prepared, perpetually wrong footed, befuddled and fumbling to power? The Metherell affair brought him to power without a dream of what he would do with the job and without an idea of what was required in the job.

**Mr Tink:** Who is on 30 per cent?

**Mr CARR:** Ask Bruce Baird.

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

**Mr CARR:** The Metherell affair got to the ICAC after a full and comprehensive debate in this Chamber.

**Mr SPEAKER:** Order! I call the honourable member for Ku-ring-gai to order.

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**Mr CARR:** There were none of the time limits that the Premier was trying to insist on a moment ago, complaining that the Parliament had the temerity to debate this matter, and complaining about the process of parliamentary scrutiny. The Government has lost in Parliament on this matter; it has been forced to reveal documentation it was determined to hide until the last minute.

**Mr SPEAKER:** Order! I call the honourable member for Ku-ring-gai to order for the second time.

**Mr CARR:** The documentation before the House condemns the Government and has forced it to concede the inevitability of an ICAC reference. How far the Government has advanced since question time last Tuesday! How far the Government has to go!

**Mr PHILLIPS** (Miranda - Minister for Health) [4.2]: Selective quoting, innuendo, no solid accusations, and no sign of any word of criminality - nothing came from the speech of the Leader of the Opposition except a range of mistruths, innuendo and selective quoting. The Leader of the Opposition raised an issue that has constantly been raised in this House since last week, to which the Government has provided answers, but no one wants to take any notice. The Leader of the Opposition referred a number of times to the key question on this issue. He asked: How did losses in a private defamation action transfer from Collins to the public purse? He referred to that as the main issue a number of times. That question has been answered.

He also said that the dollars have not been revealed. I do not know whether honourable members are actually taking notice of what has been happening in this House but, in response to a question the first time this matter was raised with me, I said, "I know nothing about it. I will seek advice from the department". I sought advice from the department. That is what the House asked me to do and that is what I did. That advice clearly answers the question of how the department came to the decision to settle Ryan's costs. The departmental head, Director-General Dr Bernie Amos, clearly indicated as follows:

I enclose a brief . . . You will observe that the Department was involved long before your and even my involvement in that my predecessor agreed to indemnify Dr Ryan as a public servant. All subsequent decisions have been taken on legal advice both within the Department and external to it. The recommendations have all been made by senior members of the Bar who are independent of the Department.

I do not believe that there has been any improper conduct by anybody and that decisions taken were commercially correct.

That is the response of the person who made the decision. The response was tabled in this House last Wednesday but still the same question is being asked. In the briefings attached, which I hope Opposition

members have read - though I doubt it - the following legal opinion was given by Mr Nicholas, Q.C.:

Further, I confirm the advice given in that conference that it is my view that the Appellant is more likely than not to succeed in his appeal listed for tomorrow. If he did succeed the inevitable outcome will be a new trial on all issues.

He then stated:

In all the circumstances I am of the view that, at this stage, there are commercially compelling reasons to finally resolve the matter.

That is in the brief from the departmental head, and that was the independent advice. It was not advice from Mr Collins' solicitors or Dr Ryan's solicitors. It was independent advice that he had taken.

**Mr Scully:** Who wrote it?

**Mr PHILLIPS:** Mr Nicholas, Q.C. Do you want to question him?

**Mr Scully:** He is not invincible.

**Mr PHILLIPS:** The department head then outlines other reasons for reaching the decision.

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

**Mr PHILLIPS:** The advice states:

The Department took into account the following factors in reaching the decision to advise Dr Ryan that it agreed to settlement.

That was the subject of a question asked last week, and an answer has been provided. However, the Opposition asks the same question today. The document continues:

(i) Dr Ryan's deteriorating state of health -

No one questions that. He continues:

- and the very real concern that the effect that a further trial would have upon Dr Ryan.

(ii) Dr Ryan's strong desire to enter into terms of settlement with Mr Collins in order for the matter to be brought to an end.

(iii) The independent legal advice provided by both Rares of junior counsel and Nicholas QC that the Appellant Collins was more likely than not to succeed on appeal.

(iv) The prospect of the Department incurring further costs under its indemnity agreement with Dr Ryan as a consequence of a successful appeal and re-trial.

Honourable members must remember that the department was not a party to the case. It indemnified Dr Ryan. The advice further states:

(v) The order for costs made in favour of Dr Ryan at the original trial, which such costs would be recoupable to the Department.

That document was tabled. On the same day that I tabled the document, the Opposition said, "It is not good enough. You are only quoting from the legal advice and we want to see all the legal advice". I said, "I do not know what all the legal advice is". It was not proper for me to be involved and it was not proper for a Minister of the Crown to be involved in this issue. So I went back to the department and said, "The Parliament wants the full legal advice", which is what the Opposition asked for. Dr Amos wrote back:

At your request a further brief on the Collins v Ryan matter has been prepared with accompanying documents. I support the contents of the brief.

So, day two - the advice. All the advice is there: full copies of all the legal advice and the details about the costs. The further documents state:

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Please find attached the following documents:

1. Opinion of W. H. Nicholas QC
2. Opinion of Steven Rares of counsel
3. Letter from the Attorney General's Department providing Crown Solicitor's advice on process the Department in considering settlement of matter
4. Copy of report of Cost Consultants . . .
5. Copy of Departmental brief recommending settlement of the matter.

I have nothing to hide about this issue. The department and the Government have nothing to hide. Though that information was provided to the Parliament the same question is asked: How did losses in a private defamation action transfer from Collins to the public purse?

**Mr Nagle:** How did they?

**Mr PHILLIPS:** The answers are there in the documents. Did the honourable member for Auburn read the brief tabled last week? Did he read the opinion or the debates? The honourable member has probably not read the information because the reality is that from last week until now - with all the newspaper articles and all the innuendo - nothing has changed to suggest that anything was wrong. This is just a fishing expedition by the Opposition. But what is the reality? The Leader of the Opposition says that the Government was dragged screaming into this issue. What nonsense! The Government was asked questions and it provided information.

Yesterday honourable members witnessed an unfortunate situation so far as justice is concerned in this House. I ask the honourable member for South Coast to take note of this because he professes to stand for the rights of individuals. I may not be as conversant with the law as the honourable member for South Coast but, as I understand it, not even courts of law can require - except on the rare occasion when major charges are laid - the production of legal advice. I understand also that most often that information is produced for the judge's eyes exclusively, so that it is not generally available. But we are faced with a kangaroo court. Ignoring the questions asked and answers given, members of the Opposition want to continue on with their fishing expedition. They are not yet happy; they have not found anything wrong. So they continue with the fishing expedition. I believe that is what this issue is all about.

The motion moved in this House yesterday to require the tabling of the private documents was one of the worst misuses of the procedures of this Parliament that I have seen. No further questions seeking information were asked, although I could and would have provided additional information if requested. But that did not happen. This is a grubby political exercise on the part of the Opposition. I do not understand why the Independents cannot see that they have been dragged into a political exercise that suits the Labor Party to a T. The Opposition now has the Budget off the front page of the newspapers and for two weeks it has wasted the time of this Parliament about an issue that is all innuendo - a matter in relation to which no charges have been laid and no accusations have been made.

I understand that other Independents have said, as the honourable member for South Coast said to me, that if they had more information they might be able to make a judgment on this matter. I rang a couple of the Independent members and reminded them that I had provided them with advice, and I asked if they wanted more information. The answer I received was that they had not had time to go through the information. I said that if they had further questions they should not hesitate to ask me and I would provide the information. But that was not good enough. I say quite clearly and without apology that the Independents decided to be a party to this exercise - an exercise that will be exposed for what it is: a grubby political exercise aimed at suiting the political agenda of the Opposition and at undermining the Treasurer, who brought down this very successful Budget. Right from the start it has been a "get Collins" issue.

The issue is all about trying to get the Minister, trying to get his staff and trying to get the department. It is about walking over Dr Ryan, Bernie Amos, Karen Crawshaw, Fitzgerald, and anyone else that members opposite care to name - all for this grubby political exercise. I hope that when this issue is exposed to the Independent Commission Against Corruption the Independents will realise that, wittingly or unwittingly, they were dragged along into this grubby political exercise. The honourable member for South Coast sits there and smiles. He says he wants more information. He wants to set himself up as the judge, but in the meantime he does not understand what this issue is doing to the individuals who are involved. If it goes to the ICAC and further, what will it do to Dr Ryan, and to all the departmental officers who have been absolutely clean on this issue. What will it do to them over the next few months? What will it do to the staff of the honourable member for South Coast if they are called upon?

Does the honourable member not understand where this grubby political exercise is leading? The honourable member for South Coast and other Independents have not thought that through. They could have had access to information, received briefings - whatever they wanted - but they preferred to take notice of the innuendo, of the snide remarks, of the selective quoting of this grubby political exercise. The Independents say they are confused, and because of that confusion they are willing to throw to the winds the rights of all those involved. They are willing to say, "Hang the expense, hang the distraction of this State, and let us go down this path". It is for those reasons that last night I tabled documents in this House. A situation should not be tolerated in which members opposite, for obvious political reasons, are able to do as Opposition members have done today, that is, quote selectively from information. They have quoted selectively, using this piece of information, and throwing out that

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piece. They have quoted selectively from a thick stack of paper to create more doubt and innuendo, without any proper analysis.

Let me give the House an example. Members opposite mentioned Dr Fitzgerald. I have in my possession the file note written by one of the senior legal officers in the department. Earlier today the quotation given was, "Brimaud had made many phone calls to Fitzgerald". Big deal! Brimaud is Peter Collins' solicitor. Other quotations were made in order to try to impugn me. The following sentence was not read, however, that is, "Agreed that there has been no political pressure on the Department of Health". Did the Leader of the Opposition quote that? No, because that did not suit his political agenda. The honourable member preferred to continue with his grubby selective quoting. I mentioned that last week Bernie Amos, the Director-General of the Department of Health, provided all the information, at my request, that the department wanted. He is now in a position of being able to provide another statement to the department. He is the person responsible for and had carriage of the decision. He said, "Any decision reached by me was made on the basis of a recommendation from senior departmental officers" - that is, legal advisers - "on the basis of independent legal advice". Why do people ignore facts that are placed in front of them? They do so because it does not suit their grubby political exercise.

A question was asked today about Fitzgerald and whether he advised me on this issue. At the time the telephone calls were being made I had the fortune to be overseas examining health systems. All that occurred while I was away. But members opposite did not take that into account when they quoted selectively. Of course, he may have telephoned me, but he did not. This departmental officer was employed as a medical liaison officer on secondment to my office in order to provide me with advice in that regard. When he received

the telephone calls he passed the information on to the department. Was that a sin? He passed the information on to the legal officers who were handling the case.

The Opposition wants to quote selectively because that is what this whole issue is about. To my disappointment, the Independents have not come to me once to ask for information. They have been caught up in this grubby political exercise. It is for that reason that last night the information was sent to the ICAC for a review in order to clear the deck and to satisfy this Parliament. Unfortunately, because of the previous case, the Court of Appeal case, there was some question as to whether the ICAC had jurisdiction. That is fine. We have nothing to hide on the issue. We will get the reference right, so we will bring it into the Parliament. The important part of the letter that came out of the ICAC today saying that they had jurisdictional problems is:

If, however, the Parliament considers that the matter is more appropriately dealt with by the Commission rather than the Parliament -

Yes, except for the next few hours we are going to have a debate that is run on innuendo and selective referencing. I do not know how that achieves anything and I wish the Independents would take that into account:

- a specific Parliamentary reference could be made.

And we are to make that reference, and we worked with them to work out that reference:

The Commission would then need to seek the appointment of an Assistant Commissioner to handle the reference.

Fair enough. The last sentence says:

Whether or not a hearing was called for would be for that Commissioner to decide.

Is that not now the right process? I refer again to that key question asked by Carr. Remember, we have gone right though this since last Tuesday, yet people are saying there are unanswered questions. Nonsense. When the ICAC officers look at it, it will lead them right back to the same source. There are important questions in this matter in terms of the good of the people of New South Wales. Those are questions that we should all answer in this House. We do not need to go to the ICAC to have them answered, but we will so that we can get them clarified. The questions to relate are: What started the case? The case started when one of the close advisers in the office of Peter Anderson, the Labor Minister at the time, instructed the departmental officer to tell Dr Ryan to respond to a newspaper article in the *Illawarra Mercury*. Dr Ryan then produced a letter that was not a direct response to the article in public service professional terms; it did not even mention Mr Collins' name. [*Extension of time agreed to.*]

Any member of this House would have been gravely offended by the other half of the letter. At best it was a great political statement, I would think defamatory, but the court said no at that time except that it was under appeal. But anyone who reads those items would see that they were not very professional statements from a public servant, that they were politically inspired. He is a member of the Labor Party. At that time he was the campaign manager for Laurie Kelly and the secretary of the federal electorate council. That is what started the case. Then, as an individual, the aggrieved party decided to take legal action. Everyone here has the right to do that and no one wants that right taken. That is what started it and that is what also led to the indemnity. What started the case? That is really the issue. That is known and the ICAC will not find any different.

Secondly, why did the department indemnify? It is not unusual for public servants and Ministers of the Crown and others to be indemnified when they do things in the course of their jobs. He made what most would have considered very unpublic service, unprofessional remarks in that letter and he sent them off to the departmental head, Ms Woodhouse, who initialled them and put them in the file. He suddenly found himself in a defamation action. So because the department is directed from the Minister's office he

was not protected at that point of time. That would be the normal process. Then, as Dr Ryan has said, the union movement came in. There were letters of appeal to the Premier at the time - Unsworth et cetera - to make sure that the indemnity was carried out. And it was. That is why he was indemnified. Nothing has changed. That has always been known.

Did Collins receive any money? The answer to that is no. As an individual he received no money. He did not sue the department; he had a personal case against Dr Ryan. The department - not Peter Collins - decided to indemnify Ryan. Did Collins receive any money out of all of this? Absolutely not. We all know that it must have cost him money. That is known. Why did the department accept the settlement? Last Tuesday, Wednesday, Thursday and again today we have tabled all the reasons why the director-general and his legal advisers and legal officers decided to do it.

Did they follow due process? The director-general says so, everyone else says so, but maybe the ICAC can clarify that. The director-general and others feel very confident, but no one has actually made an accusation that the department did not follow due process. No one has made that accusation. The Opposition has not made any substantive accusations at all, which I think is despicable. Once again, they are working it on political innuendo. Did the department follow due process? No one has questioned that. Why go to the ICAC? I have answered that quite clearly.

Was there any undue pressure on departmental heads or legal officers to do it? Once again, the answers to all of those questions are known and tabled in this House, but everyone opposite wants to ignore them. They want to doubt the veracity of the statements of public servants of this State, of me as Minister, of everyone else in this area because those statements do not suit their political agenda. I cannot understand why the Independents cannot see that. The ICAC will go right through their answers to those questions, which I am quite convinced, without question, will clear the name of everyone in this issue - the Government, myself as Minister and, most important, the ones most damaged and hurt by this: the departmental people, the public servants who made sure this was all above board and done properly, without interference, with the proper legal advice at the steps. Outside of all that it will be all innuendo, interpretation, et cetera. That is politics, but I cannot understand how the Independents have allowed themselves to be dragged along with that.

I am concerned about what this is doing to individuals, particularly the public servants and particularly Dr Ryan because those on the Opposition side, as Dr Ryan said in this morning's paper, and as we all know, will climb over anyone's body to suit their political agenda. They do not care. They will not care who they take down with their innuendo. I do not understand why the Independents are not taking that into account. It is not right, on this type of matter, for the honourable member for South Coast to set himself up - as he does so often in this place, along with the other Independents, especially MacDonald and Moore - as the judge and jury as to whether the Opposition is right or whether the Government is right. It is not their responsibility or their role, not at all.

I support the motion by the Premier. I support the good work done by departmental officers and others on this issue. I am confident that the ICAC reference will clear everyone in this issue. Unfortunately, the way things are, with all of the hurt that occurred for a lot of people and all the time and money wasted in this State, all of that will disappear into the background. I do not know whether the Independents and the public, or anyone, will actually learn any lessons from it. I hope they will. I support the motion.

**Mr WHELAN** (Ashfield) [4.30]: One of the most important matters to be raised in this Parliament was raised by the Minister for Health who has just spoken in this debate. He asked, "What started this case?" Let me tell him what started this case. It was the stupidity of this State's Treasurer, who, despite urgings from all and sundry -

**Mr Phillips:** It is his right. Do you deny him his right?

**Mr WHELAN:** I am not denying anyone's right, but sometimes a duty of care has to be exercised with

that right. There is a correlative duty with that right. This public servant wrote to Greiner, Hannaford, Schipp, Hatton, Pezzutti and Kelly. He pleaded with the then shadow minister for health not to proceed. I ask honourable members to read the transcript of the evidence heard by the defamation judge, Mr Justice Hunt. In May 1988 Mr Justice Hunt asked Mr Collins' counsel, "If your client is a Minister of the Crown why is he still proceeding with the defamation action?" Six or seven members of Parliament and Mr Justice Hunt are all saying, "Do not proceed".

**Mr Phillips:** It is still his right.

**Mr WHELAN:** It is still his right, but this occurred because of his own stupid actions.

**Mr Phillips:** Is that what is on trial?

**Mr WHELAN:** No, that is not what is on trial. The Minister for Health asked, "Why did he do it?" I say it is because he was stupid. The Minister for Health, the great spin doctor, and the Treasurer have been trying to introduce the indemnity issue. Indemnity was granted because of the vicarious liability of the State towards an employee. The Minister for Health should read Stuart Littlemore's advice which he tabled in this Parliament last night.

**Mr SPEAKER:** Order! The Minister for Health has already spoken in the debate.

**Mr WHELAN:** If the Minister does not believe that advice he should have a look at the file. The Treasurer, the former Minister for Health, was so incensed by that advice that the then Minister for  
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Health directed Michael Rosser to abrogate that indemnity. It was only when the Professional Medical Officers Association took the Department of Health to the Industrial Court, which was presided over by Mr Justice Sweeny, that the matter was finally resolved between the parties. No one doubts that a vicarious liability existed within the Department of Health, both as to costs and damages. But the Minister for Health fails to understand that the indemnity for costs and damages was triggered because Peter Collins lost, not Dr Ryan. Peter Collins lost the verdict and the award for costs.

**Mr Phillips:** Go on to the next question.

**Mr WHELAN:** I am just explaining matters for the benefit of the Minister because he does not understand.

**Mr Phillips:** You are being selective.

**Mr WHELAN:** I am not being selective; I am being accurate. The Minister also asked, "Did Collins receive any money directly?" The Minister was asking whether Mr Collins got a cheque either from the Department of Health or from Treasury. That is a pretty simple question and the very simple answer is no. But did Collins benefit from the settlement that he had arranged? The answer, which is just as simple, is yes. That settlement, the issues surrounding it and the manner of the settlement are not matters of conjecture or speculation; they are a matter of accurate public record. I want to move an amendment to this motion. I move:

That the question be amended by leaving out the words "followed in reaching the settlement in the case of *Collins v. Ryan*" with a view to inserting instead "relating to the case of *Collins v. Ryan and Ors* and its settlement".

As I was saying, Collins benefited from the settlement. That was a direct benefit, not an indirect one. A settlement was negotiated and there was a transfer of a private debt to the department. That is the very essence of this matter. One has to ask: Why were there changes to the department's advice? Last night the Minister for Health tabled, amongst a whole host of documents, information that was more than relevant to the department. I want briefly to refer to advice from the Office of the State Crown Solicitor. I will then refer briefly to the draft letter. I want honourable members to appreciate that the advice dated 28th July from the Department of Health

is based on the proposition that it is subject to the Crown Solicitor's advice. The Crown Solicitor, in his advice to the Director-General of the Attorney General's Department dated 28th July, 1993, says at the end of that advice:

In order to save time I shall content myself with offering a draft reply to the Director-General. Its terms indicate my views.

I emphasise the words "Its terms indicate my views". I wish to draw attention to another matter. The first paragraph of the draft letter has been changed. The first paragraph contains these very important words:

I am advised by the Crown Solicitor that he has no more than a passing familiarity in these proceedings.

The Crown Solicitor is saying, "I have a limited knowledge about this matter because I have not been fully briefed in relation to it". That is significant but it pales into insignificance when we become aware of the omission of the fourth paragraph on page 3 of the draft letter. It is only brief, but it is important to put it on the record. It states:

The only relevance that he sees is the possibility, first, that the first of the two facsimile transmissions on 26th July, to which I have referred, asserts that the proposed settlement was achieved when the parties got together and agreed. Dr Ryan may have been unduly influenced by Mr Collins' standing, with the result that his own wishes, a factor which I had adverted to above, may need to be discounted to some extent.

The Crown Solicitor is referring in this advice to the undue influences, implied intimidation and duress exercised at the luncheon that was held in Parliament House. The Minister's advisers may laugh -

**Mr Phillips:** It could be challenged in court.

**Mr WHELAN:** It is interesting to read the transcript, but this is what the Crown Solicitor is saying to the Attorney General's Department.

**Mr Phillips:** So what? It means nothing.

**Mr WHELAN:** The Minister should ask the Premier why that most significant passage was omitted from the ultimate reply furnished to the Attorney General and relied upon by the Department of Health.

**Mr Phillips:** Ask the Solicitor General.

**Mr WHELAN:** I will ask the Solicitor General. That leads me to the next important point. No advice was received from the Solicitor General. The one person in this State who should have been foremost on the advisings list is the Solicitor General. Honourable members heard what the Minister for Health just said. He said, "Ask the Solicitor General". No one got that advice, not even the Minister's department or the Premier's Department. No one obtained the advice of the Solicitor General.

**Mr Phillips:** Was it sought?

**Mr WHELAN:** Yes, it was sought. Mr Humphry said -

**Mr SPEAKER:** Order! I call the Minister for Health to order.

**Mr WHELAN:** The Minister asks questions, but he has not read the papers. Mr Booth said that it was the view of the director-general of the department that the advice of the Solicitor General should be obtained. There is no doubt in my mind that this settlement will be undone by the Independent Commission Against Corruption as a result of duress, intimidation, phone calls, Dr Pezzutti's interference and -

**Mr Phillips:** Do you mean to tell me that the court got it wrong?

**Mr WHELAN:** The court did not get it wrong, but it makes me worry when a solicitor of the Supreme Court signs an affidavit to the court on 27th

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July that the matter has been settled, when no one in their right mind concedes that the matter was not settled until the day after. Does the Minister suggest that there was a signing of an affidavit in anticipation of the matter being settled? That must be a new law. Mr Humphry said in the second paragraph of his letter:

You will note that I became aware of the matter through a request by Mr Collins to enquire if the Department of Health was giving attention to a proposal by his counsel for settlement, given that the Appeal hearing was imminent and any consideration of settlement had to be resolved quickly.

I go to page 2 of Mr Humphry's letter. This is the dump-the-Treasurer advice that the Premier suddenly sought yesterday. Mr Humphry said:

My assistance was sought in enquiring from the DOH if the matter was receiving attention.

That is, is the Collins matter proceeding? Is not this the picture, that the -

**Mr Tink:** Picture?

**Mr WHELAN:** The image, then. Is it not the image that the State's Treasurer makes an appointment on 20th July - the honourable member for Ku-ring-gai might think this is a laughing matter, but the future of one of his colleagues is at stake.

**Mr Tink:** The future of the Leader of the Opposition will be at stake over this.

**Mr WHELAN:** On 20th July in all probability the Treasurer rings Mr Humphry and says, "I would like to speak to you." Humphry confirms that by saying that he asked to see him at 9 o'clock.

**Mr Tink:** What is improper about that?

**Mr WHELAN:** It is improper for the State's Treasurer - as Mr Booth from the State Crown Solicitor said this morning - to attempt to exert influence on the Premier's Department and the Director-General of the Premier's Department. That is what it is. Mr Humphry said:

My assistance was sought in enquiring from the DOH if the matter was receiving attention.

This is what the Treasurer has also said. He is currently negotiating to withdraw the appeal through his counsel, with all parties meeting their respective costs. He has three legal opinions indicating that the appeal will be successful. What did Mr Collins forget to tell the Director-General of the Premier's Department? First, that not all those advisings said that he would be successful. Read Mr Sackar's advice on that. Mr Collins did not tell Mr Humphry that the advice of Mr Rares was taken without Mr Rares having even read the transcript of the matter. He did not tell Mr Humphry. And he cannot rely on Mr Nicholas because this is dated 28th July. Mr Nicholas' brief and advising comes in on the 28th.

What is the other advice? I can tell the House that it is from Tom Hughes and Maurie Neil, and another junior in the case. But what Mr Collins forgot to tell the director-general in his honest, non-intimidatory approach was that the advice of the Department of Health's own legal office was that there was no reason to settle. By the admission of the department's own senior legal officer on 26th July, there was no settling.

**Mr Phillips:** What did Nicholas, Q.C., say? What did Rares say?

**Mr WHELAN:** Rares had not read the transcript.

**Mr Phillips:** Subsequent to that, what did he say?

**Mr WHELAN:** Is there another advising from 12th July? Are there other papers?

**Mr Phillips:** What are you talking about?

**Mr WHELAN:** You just said there were other papers.

**Mr Phillips:** I did not, you liar.

**Mr WHELAN:** You just said that.

**Mr Phillips:** You liar.

**Mr WHELAN:** I asked you what happened on 12th July -

**Mr Tink:** Address the Chair. Don't cross-examine him.

**Mr WHELAN:** I want the Parliament to understand that the Minister for Health has indicated that there are two briefings.

**Mr Phillips:** On a point of order: The member for Ashfield is misconstruing what I have said.

**Mr Whelan:** You will have to change *Hansard*.

**Mr Phillips:** I have never indicated at any time that there were additional papers available, or additional advisings. It is a nonsense.

**Mr WHELAN:** I take the point. It does not mean anything more than that the Treasurer was less than honest with the Director-General of the Premier's Department. He did not tell him the truth. He did not tell him, for argument's sake, that Kelly, barrister, had indicated that Collins would not win. He was not honest enough to tell him that Sackar said that the case might not proceed to win.

**Mr Phillips:** The important thing is the department's independent advice, not Ryan's advice.

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

**Mr WHELAN:** The most important thing is that the State's Treasurer tried to intimidate the Director-General of the Premier's Department and he told him a big lie. That is not the only lie. The third page of Mr Humphry's letter states:

Dr Amos informed me that the department had also received advice from Mr Collins' lawyers that they were considering an adjournment of the appeal until after High Court consideration on "Freedom of Speech" scheduled for September 1993.

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This is the first information ever on any public document that as at the 23rd Mr Collins was not proceeding. Minister, did you know that Mr Collins signed the terms of settlement on the 22nd? Dr Amos told the director-general on the 23rd that Mr Collins was going to appeal. Who is telling the truth? The truth must out, Minister, and the truth is there. The truth is that Mr Collins and his lawyers deliberately lied, fabricated a story for the purpose of inducing the Government to proceed. There it is in Mr Humphry's own letter. You tell me why Mr Humphry would be told by Dr Amos -

**Mr Phillips:** Are you calling Dr Amos a liar?

**Mr WHELAN:** Dr Amos is probably telling the truth, because he is saying the department had been advised by Mr Collins' lawyers that there is a High Court appeal scheduled and that appeal is going to go ahead in September and they are going to fight it all the way. But what Dr Amos did not know was that the day before this advice Mr Collins had pulled the rug from underneath everyone. He got Dr Ryan, took him in, filled him full of wine and chardonnay, and got him to sign the terms of settlement without consultation. He did not even consult his solicitor. He did not even have the decency to ask that his solicitor be previously advised as to the method by which this matter can be settled.

If there is anything that is going to hang on Mr Collins' reputation it is the way that he induced Dr Ryan, who has Parkinson's disease, into submissive action, into signing these terms of settlement, without his lawyer's consent. The Treasurer's lawyer has to answer to the Law Society as to why he, Mr Brimaud, gave the terms of settlement to Mr Collins, because he would have known that Mr Collins was going to walk in and sign Dr Ryan up to hopefully end this matter. He ignited a huge flame that is going to envelop the whole of this Government. If you do not wake up, Minister, you will walk straight into the same trap. You have to be very careful. *[Extension of time agreed to.]*

A few points about what the Treasurer said. The Minister mentioned selective quoting. I think he has selective amnesia, so I am going to read out a transcription of what occurred on Andrew Olle's program this morning. This is a question from Andrew Olle:

There is one specific point I must ask you before you go and that is referring back to some notes from the, I think is the Assistant Crown Solicitor, Greg Booth in one of these documents released yesterday saying you had put pressure on the Director General of the Premier's Department and the Director General of the Health Department to accept the offer of settlement.

This is what Mr Collins said:

I absolutely deny that and I might add if you look, I don't know whether you have a copy of the notes which I saw for the first time last night, the, those notes are purely hearsay. They do not reflect any direct conversation that Mr Booth, whose existence I didn't know about until yesterday, or anyone else had with me or anyone else so I think that you will find that is totally hearsay . . .

He concludes by saying, "I absolutely reject the claim that Mr Booth has made". Do honourable members know what Mr Booth claimed? He claimed that Mr Collins went to see the Director-General of the Premier's Department and that he exerted influence.

**Mr Phillips:** Read Booth's quote.

**Mr WHELAN:** He exerted influence. That is the quotation.

**Mr Phillips:** Read the next part.

**Mr WHELAN:** That is the quotation. What happened? Mr Collins has denied that he said, "I absolutely reject the claim that Mr Booth has made". Mr Booth's claim is absolutely and positively correct, as the Director-General of the Cabinet Office has just advised people in his memorandum that was delivered by the Premier today in the Premier's attempt to distance himself from the Treasurer. He said in no uncertain terms, "Mr Collins made an appointment to see me on 21st July. He made an approach to me, asked me to ring Bernie Amos of the Department of Health for the purposes of endeavouring to exert some influence on that department". That is the relationship. A senior Cabinet Minister, the State Treasurer, goes to the Director-General of the Premier's Department urging him to pick up the phone and ring the Department of Health to make sure that his matter is going through. That is grossly untoward conduct; it is immoral. What sort of arrangement is it? The other allegation, which I will not go into, is by Mr Booth: that the same intimidatory practice was used and the same details were given to Dr Amos. The Minister asked me a question. This is what Mr Booth said in his memorandum of 26th July:

An appeal is to be heard on Thursday and Collins has been putting pressure on the DG of the Premier's Dept. and the DG of the Health Dept. to accept his offer of settlement on the terms that each party pay its own costs.

What could be clearer than that? It absolutely vindicates what Mr Booth said. Mr Booth is supported in every essence by the Director-General of the Premier's Department, who says unequivocally, "Mr Collins wanted me to ring the Director-General of the Department of Health." He said:

My assistance was sought in inquiring from the Director of Health if the matter was receiving attention.

That is exactly what that means, and nothing more. Mr Collins is also on record as saying a few other things, to which I will draw the attention of the House. He said at a press conference:

I didn't receive a single cent from the public purse, nor did I ever seek it.

In regard to the first statement, "I didn't receive a single cent from the public purse", the answer must be yes; he did not. But as I explained earlier, he got a direct benefit. When you read "Nor did I ever seek it" you fall over, if you look at the transcript. The first thing he said when his solicitor wrote to Dr Ryan was, "I want an apology and I want damages". Look at the transcript and the terms of settlement. Have a  
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look at the terms of the arrangement. Mr Collins wanted an all-up settlement between the joint defendants of \$100,000. I just happen to have with me the letter dated 3rd December, 1992. I briefly quote from the letter of Colin Daley Quinn:

The matter commenced before Mr Justice Sharpe on 30th November 1992. We note that prior to the commencement of the trial we indicated to you that Mr Collins' lawyers had, at our urging, put an offer of \$100,000 inclusive to settle the matter. Further discussion ensued and it seemed that he may be willing to accept the sum of \$50,000, although that was not an offer made by him.

What does an offer to settle for \$100,000 mean? It does not mean that he did not seek damages. That is exactly what it does mean. Mr Collins went on to say, with his trite hypocrisy, that he did not want any contributions from the public purse. Dr Ryan was indemnified as to costs and, there is no dispute, as to damages. Mr Collins knew that if Dr Ryan had lost the case, Mr Collins had a successful damages claim against the Department of Health. He would have known that automatically. It followed that, if Mr Ryan had lost the defamation action, the Department of Health would have picked up the tab - no one else. He was indemnified both as to costs and as to damages, because under the advice it received from Stuart Littlemore the department was vicariously liable.

[*Interruption*]

I did not hear what the honourable member for Manly said.

**Mr Tink:** You heard.

**Mr WHELAN:** Tell me what it was.

**Mr Tink:** He said, "Because of the previous Minister."

**Mr WHELAN:** It would not matter. The honourable member for Manly was not here when I explained about the indemnity. Dr Ryan had an indemnity as to costs, and there is no dispute about that. Dr Ryan also had, confirmed by advice that was tabled last night, the advice of Stuart Littlemore, barrister on their behalf, saying that the department was vicariously liable for Dr Ryan's costs. The honourable member for Eastwood can say what he likes; that was the department's advice and he will have to wear it. In any event it means that the department would have paid Dr Ryan's damages and costs if Mr Collins were successful. That is correct, is it not, Minister? The answer is, yes.

**Mr Phillips:** Because of a direction from your previous Minister.

**Mr WHELAN:** The answer is yes, is it not? Of course it is. Though Mr Collins pretended that he does not want any money from the public purse, it should be understood that he did want the money. That is what he said. He was asked:

Did your political colleagues, including Mr Greiner, urge you to settle?

He said, "No". There is a statutory declaration floating around which says that at least six or seven members of Parliament, including -

**Mr Phillips:** That is Ryan's statutory declaration.

**Mr WHELAN:** No one has denied the contents of Ryan's statutory declaration. No one has departed from it. No one, not even the Minister for Health, denied the truth of what is contained in the statutory declaration. The Minister gave Dr Ryan a bit of a savage belt yesterday.

**Mr Tink:** He has given you a savage belt.

**Mr WHELAN:** I am a member of Parliament and I accept it and expect it. That view is not shared by all of your colleagues. I should read a short note that has come into my possession. On 22nd July, the day Dr Ryan walked into Parliament House and had lunch, had the State Treasurer exert influence on him, he signed a document under duress. After the lunch Dr Ryan went to see a friend in this building. He wanted to call upon one of the State Ministers. That Minister was not available, but was good enough to write a letter that Dr Ryan would have received some days later. It stated:

Dear Michael, I am sorry I missed you when you called this afternoon. Suffice it to say you are a man of great honour, decency and integrity.

That letter was signed by Virginia Chadwick. She has a much different opinion about a very highly qualified, decent, honourable man who was absolutely disillusioned.

**Mr Phillips:** You are using him.

**Mr WHELAN:** You read his statutory declaration in which he said, "I went into the parliamentary dining room. Everything would have been okay; everything was okay because I was with the State's Treasurer. I was with a parliamentary secretary for health, and they were the people who took me to lunch". How could you possibly believe that no one would be intimidated in those circumstances, particularly a public servant who was looking down the gun barrel of a rehearing? Do you think that is fair play by the State Treasurer, that this decent, honest, honourable person, a man of maximum capacity and integrity, a man that the Minister for Health refused to appoint to the AIDS Council of his department - despite another Minister recommending that he be appointed - should be intimidated? I could accuse the Minister for Health of political interference, except that I do not have the file. He will have to justify why -

**Mr Humpherson:** You have done that anyway.

**Mr WHELAN:** He has to explain. I asked him the question yesterday and he did not explain it. The Minister for Health, who protests he is equal above all, was the one who rejected Dr Ryan from appointment to the AIDS Council of New South Wales after Dr Ryan had written the department's policy paper and after he had been requested by departmental officers to assist. The Minister has some questionable morality to answer. I wish to conclude by saying that I have read many barristers' advisings, but how can anyone rely on the advice of

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Steven Rares when on page 3 of the advice he says, "I have not been briefed with a copy of the summing up or

the transcript or applications for directions to which each of Mr Hughes and Mr Sackar refer in their respective opinions". How can that be relied upon? [*Time expired.*]

**Mr O'DOHERTY** (Ku-ring-gai) [5.0]: What a disgraceful, despicable, ranting, raving, hysterical performance by the man who purports to want to be the first law officer of New South Wales. This man holds himself out to be the shadow attorney general in this place. He ought to know better than to come here with this kind of story and narrative that he has clearly invented. It completely cuts across all the important principles of law. Now, because he cannot stand the attack despite what he has said, he has left the Chamber like the coward that he is. Why does he not return to face the music?

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

**Mr O'DOHERTY:** The honourable member for Ashfield does not care for the truth, reality, law, process or any of the people whose names he will besmirch in his party's pathetic attempts to try to get a scalp under its belt. It will not work this time - and it has not worked in the past - because on this occasion, as before, the Government has done the correct and honourable thing. I commend the Minister for Health for the way he has handled this difficult issue at a time when there are more important things to worry about than the rubbish being thrown up by the Opposition day after day. The Minister for Health has handled his portfolio with grace, dignity, flair, style, care and compassion and has travelled through this minefield, this cow paddock full of little pats dropped by the members opposite and has come out of it with flying colours.

The matter has been referred to the ICAC by the motion of the Premier, whose Government has been exemplary in the way it has handled the matter. It is appropriate to refer the matter to the ICAC, not for honourable members opposite to come into the Chamber with stories, concoctions and inventions - and the shadow attorney general admits it - about what has happened to fill in the gaps in what he has learned from files that the Opposition managed to get from the Government yesterday. Let us consider that point. Never before to my knowledge has the Parliament actually been able to force a department to produce all evidence relating to people's private litigation. That is a terrible precedent, yet it has been set as many other terrible precedents have been set in the past few years in this House. And, as with others, that precedent has just gone by the board.

I am surprised and shocked that the Independent members in this House fell for it. They had full disclosure and full briefings from the Minister for Health. They have had every available opportunity to scrutinise the material, to listen to argument and hear the truth, and yet they fell victim yesterday to the tactic of the Opposition to have the whole matter dragged up once again and, in its unprecedented fashion, have all the advice and files tabled relating to private litigation of citizens of this State in order to second guess what the courts might have done. In this debate they are trying to second guess what the ICAC might do, and second guess anyone for political capital.

I am surprised and disappointed to see the Independent members falling victim to that because I know they are better than that. If the Independent members were to stop talking and listen perhaps they might understand the point. The Independent members know better than to fall victim to that type of politicisation of important principles of law and legal process. I refer now to some of the other hysterical rantings of the shadow attorney general. He spoke about lighting fires. At one point I felt like asking the attendant to obtain a fire extinguisher because I thought the shadow attorney general was going to explode. He spoke about the infamous note written by Greg Booth and he quoted selectively from the following passage:

An appeal is to be heard on Thursday and Collins has been putting pressure on the DG of the Premier's Dept. and the DG of the Health Dept. to accept his offer of settlement on the terms that each party pay its own costs.

That is Mr Booth's understanding of the situation. It is probably fair to say that there was a lot of background noise and static because it had been going on for many years, and Greg Booth's memo reflects that fact. Of course, it was a matter of grave importance to the participants of the litigation, as would be expected. Greg Booth understood that an appeal was to be heard and he surmised that Collins had been putting pressure on the

Director-General of the Premier's Department and the Director-General of the Department of Health. What did the shadow attorney general say? He left out the bit about the Director-General of the Department of Health. Why did he leave it out? As the Minister for Health says, he selectively quotes the material. It was not convenient to his argument to quote all of it. Why bother to let the facts get in the way of a good story? That is a good principle in journalism in some quarters and it is certainly a good principle of the Opposition frontbench.

**Mr Beckroge:** You lived by it.

**Mr O'DOHERTY:** I was never a party to that. Thank you to the honourable member for Broken Hill for acknowledging that. Some years ago he had a career in journalism. What does Bernie Amos say? On 15th September, 1993, Bernie Amos, reacting to all the disclosure, said:

I wish to state categorically that at no stage did I have any contact with Mr Collins, Dr Ryan or their respective solicitors about the subject of their proposed settlement, indemnity or the responsibility for costs.

Bernie Amos stated categorically he had no contact about those matters, and he is the one who made the decisions. If Bernie Amos's memo is correct, and I imagine when he gives evidence to the ICAC those matters will be explored, he had no contact. So, Greg Booth was wrong in at least one of his assumptions.

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He said there was contact but the Director-General of the Department of Health said that there was no contact. Bernie Amos said he had no contact with anyone on this matter. He was the one making a decision about continuation of indemnity and the settlement of the case. It was his ultimate carriage of this that is the important and salient point in this debate. Bernie Amos had to make the decision and he had no contact from Collins, Collins' solicitors, Ryan or Ryan's solicitors. Bernie Amos made the decision independently, and how did he make it? According to his statement today he said, "Any decision reached by me was made on the basis of a recommendation from senior Departmental officers on the basis of independent legal advice".

I ask the honourable member for South Coast to put himself in the position of Bernie Amos, the Director-General of the Department of Health. If he had these difficult questions to resolve, was receiving advice from his department and was asked ultimately to make a decision, what would he rely on? Would he rely on advice from the parties? No. He would look at some of the evidence, ask his department for advice and seek independent advice from senior counsel experienced in defamation actions. And that is exactly what he did. On the basis of that independent advice Bernie Amos said, "That is the decision we make. Here's settlement". The exercise we have been through in the past few days - as I said at the outset and as the Minister has stated so well - is a grubby sham specifically aimed at doing just one thing; carrying through an intent of the Labor Party, an intent that goes back to way before 1988, to get Peter Collins.

How did it begin? It began the day the then health Minister, Peter Anderson, picked up the telephone and said to someone, "Get Peter Collins. Get that man. Fix him". Peter Anderson was the Minister at the time, he was Mr Fixit. He said, "Just get someone to fix Collins. Go out and kneecap him in the press". That was the directive from the then Minister - an absolute disgrace. He still comes to this House, sitting opposite day after day guffawing and carrying on with the rest of the crew, pretending that there is some impropriety on the part of this Government. We should ask that question of the honourable member for Liverpool: What about his impropriety? He began this whole grubby affair and now, five years later, the Opposition is trying to finish it. Peter Anderson said, "Get Peter Collins". Members on the Opposition benches have long memories.

**Mr Tink:** But short on detail.

**Mr O'DOHERTY:** Short on detail, short on truthfulness, short on any kind of ethics, short on morality but long on memory. They will wait and wait and then they will pounce at the maximum point of effect. The Opposition waited until Peter Collins, the Treasurer, handed down the State Budget - one which, by comparison with the Budget handed down by John Dawkins, was a shining example of how it should be done. John Dawkins was derided from one side of the Chamber to the other. Not so Peter Collins; his Budget was well

received. What does the Opposition do? Its members reach into the dirt bag file, its scum file, and Peter Anderson says, "Wait a minute, I started something back in 1988. Maybe we should finish that. Maybe there is something that is still hanging around that we can create a bit of a smell about".

Out comes the file, out come the questions and in troop the members of the Opposition day after day, the Leader of the Opposition foremost, dragging this matter out to take the heat off themselves when they are not performing, to try to take the kudos away from the Treasurer and his Budget. Question after question is asked. This was the bidding of the Labor Party from the first day. Now, by various processes available, and indeed by the unwitting obsession of the Independents, the Opposition finds it has attracted some type of quasi credibility to its campaign. Opposition members must be delighted because this is what they dream about. Bob Carr attends the House day after day accompanied by the gum chew brigade, his lines having been carefully scripted late at night. We have all seen them sitting in the advisers' seats behind the bar of the Parliament chewing gum of one description or another.

**Mr Tink:** Nicorette.

**Mr O'DOHERTY:** These are the advisers to the Opposition, so we assume they are probably chewing Nicorette.

**Mr Scully:** What are you smoking?

**Mr O'DOHERTY:** I gave up smoking some years ago.

**Mr Scully:** It stunts your growth.

**Mr O'DOHERTY:** I certainly did not have to use Nicorette. The gum chewing brigade stand whispering to each other. They walk down to the press gallery; they go for a bit of a trawl; they put a spin on things and they come back and say, "Hey Bob, I reckon you ought to try this line". They write down a few lines, throw them around the office after dark, get a few journalists up, open the bar and toss the lines around, bring in a few of the other people - two or three of Bob Carr's supporters, he only has five left - and all the advisers come over from the Labor Council. They all have a good time and work out which lines are going to work. The next day, the journalists who might have been there the night before sit up in the gallery. What happens? All the lines start spewing out in question time. Surprise, surprise.

Then Bob goes down to the press gallery and he tries them all out again. He repeats the lines three or four times in the same press conference. He has this smirk on his face - a sort of gloating smirk as he trots out his lines that have been carefully worked out the night before, chewed over by the gum chew brigade, worked through the press gallery. "What is going to work?" they ask. "Try this one, Bob". He tries them all out like a court jester, with the various members of the press gallery looking on with increasing

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incredulity at just how far this desperate man will go. The Leader of the Opposition lost his credibility years ago but no one has bothered to tell him because no one can bring themselves to do so. Certainly the gum chew brigade cannot tell him because then they all would be out of a job.

None of his fellow caucus members want to tell him because they are all doing the numbers waiting for the right moment to pounce, and for whom will they vote? Will it be Peter Anderson, the disgraced former Minister for Health? Certainly not. Will it be Paul Whelan the disgraced alternative Attorney General? Certainly not. What a disgrace that would be for New South Wales. My tip is Carl Scully, the honourable member for Smithfield. I hear that the honourable member for Smithfield has been doing the numbers. We will have to wait and see whether he gets the numbers. There will be a time when he is ready to pounce and that, of course, would be a terrible day for the people of New South Wales because he does not even believe in immunisation. He is so far out of left field that he is the only one in the world who does not think immunisation is a good idea.

But this is slightly off the subject, which deals with Bob Carr and his desperate attempts to carry through the campaign that was begun in 1988 by the then health Minister, Peter Anderson. Bob Carr goes to the press gallery and tries out the lines. Mr Thirty Per Cent. The press gallery gave up on his credibility years ago. We have seen the reflection in the polls. He is down to 30 per cent. If he goes down any further they will be sending out a search party for Bob Carr's popularity. The press gallery knows that time and again Bob Carr is trying to do one thing and one thing only; he is trying to deliberately cause strife and trouble to take the emphasis away from his own lack of performance, his own lack of integrity and his party's lack of standing with the electorate. Look at the opinion polls here and federally: his measure of popularity is reflected everywhere.

**Mr SPEAKER:** Order! It being 5.15 p.m., pursuant to sessional orders the debate is interrupted.

## **PRIVATE MEMBERS' STATEMENTS**

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### **SPRINGWOOD TURPENTINE TREES**

**Mr MORRIS** (Blue Mountains) [5.15]: I draw the attention of the House and the Minister for Transport to a problem experienced by some residents in my electorate where Boland Avenue joins the Great Western Highway at Springwood. The Roads and Traffic Authority owns a small, narrow block of land there of approximately 1,760 metres. It is a little pocket of land that was left when the road was widened to four lanes many years ago in order to bypass Macquarie Road into Springwood. The land has been vacant for 20 to 25 years. The RTA has now seen fit to place that land on the market as surplus to requirements. The block faces a small right-of-way on to Boland Avenue. Entry cannot be gained to it from the highway. The residents have used the land for many years to gain access to their garages, and the kids have used it as a playing area as they have grown up. It is a beautiful area for a park.

The RTA has now erected a sign from a local real estate agent. That was the first that the residents knew about the intended sale. A meeting was held on Saturday afternoon and approximately 30 to 40 people attended. The residents believe the land should be left for parkland. In the lower mountains grows a beautiful tree, the turpentine, which, is well suited to the clay soil. When the RTA widened the road it left approximately eight or nine turpentine trees standing on this pocket of land, some of which are approximately 100 years old. Botanists have been called in to look at the trees, which are in prime condition. It would be a shame to see anything happen to them. The land is a small parcel of land, barely 18 metres wide, on which to build.

I appeal to the Minister to put the sale of the land on hold until discussions can be had with local residents and councillors to see if the land can be taken over as parkland. Since it is the intention in the Blue Mountains electorate to have road widening with parkway, this would be a good start. Boland Avenue is a crescent that serves many residents. It is unique - one way in and one way out. For many years the residents have looked after the land, mowing it and keeping it in good order. They have done a wonderful job. The kids have grown up using it as a playground. Many residents attended the meeting to make sure nothing will happen to the land.

I have been in touch with officers of the property department of the Blue Mountains Council who have stated that they are interested in doing something about the land. I urge the Minister to get officers from the property section of the RTA to put the land sale on hold until the problems are looked at, to see if the zoning can be changed, and have the Blue Mountains Council together with local residents and the RTA develop this beautiful area into a park that will save the trees. It would be a great shame to lose this pocket of land with its lovely trees. Most people driving along the highway would probably go past it and not even notice it, yet it means a lot to the nearby residents, who do not have other parkland available to them.

The local residents have built beautiful homes and established lovely gardens along the peninsula. The building blocks are quite deep and about eight or nine people use the right-of-way to gain access to their garages. The loss of the land would deny them access to their garages. It would be nothing short of vandalism

if we did not try to save this land for those who live in the region. I ask the Minister for Health to take my concerns to the Minister for Transport and Minister for Roads in the hope that this small parcel of land can be saved for the use of the people who live in Boland Avenue, Springwood.

**Mr PHILLIPS** (Miranda - Minister for Health) [5.20]: I thank the honourable member for Blue Mountains for bringing this matter to the attention of

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the House. Of course, the honourable member has a reputation for going in to bat for the residents of the Blue Mountains. His resounding victories at the past couple of elections were the result of his frequently expressed genuine concern for his constituents. He has a record that is probably unmatched by other members of Parliament for getting issues fixed in that wonderful part of the world. The problem with Boland Avenue highlights the dual concerns the honourable member has. He is concerned about the impact on the residents were this land not to be saved.

The strip of land is 1,760 metres long and 18 metres wide and has been used traditionally by the residents as an entrance road to their garages and as parkland for their children. It is important to the residents, but it is also important from an environmental point of view that the wonderful turpentine trees not be disturbed. I am more than happy to take this issue to the Minister responsible so that the Roads and Traffic Authority can consider holding off on the sale of the land pending sensible discussions with the council and the residents to ensure that all rights are considered. This Government is about realising surplus assets and making gains, but that must be done in sympathy with the environment and in recognition of the needs of local residents. It must not be done merely for the dollar.

#### **BEVERLY HILLS PUBLIC SCHOOL NOISE BARRIERS**

**Mr IEMMA** (Hurstville) [5.22]: I wish to raise a matter that is causing a great deal of concern for students and parents of students of Beverly Hills Public School, which is in my electorate. The school is located at the intersection of King Georges Road and Stoney Creek Road. Ever since the M5 tollway terminated at King Georges Road, the location of the school has been subjected to increased volumes of traffic and noise. The noise has made life unbearable for students and teachers at the school. The issue of great concern to the parents of students, and also to the teachers, is the decision by the Roads and Traffic Authority not to proceed with a project to build noise mounds or noise barriers for the school.

In 1991 a decision was made that the work should be done, but unfortunately the Government has not proceeded with that project. Since then parents and students have been campaigning to try to reverse the decision. Representations have been made to me and in turn I have made representations to the Minister for Transport. In June the Minister told me and the parents that there were insufficient funds to construct the noise mounds and that other projects had priority. The Minister's decision is inconsistent with advice that the RTA and former Premier Greiner gave the school in May 1991, that is, that noise mounds would be constructed and that funds would be made available. The school had every reason to be confident that the project would proceed.

On 7th May, 1991, a meeting was held at the school and the minutes of that meeting refer to the timetable for implementation of the project - not whether the project would proceed. The minutes refer also to the cost of the project and where the fill for the mounds would come from. There was never mention of whether the project would proceed. A clear decision was made by the RTA and the Government to build those noise mounds in order to alleviate the problems of the school. However, the Government has now said that funds are not available and that other areas have greater needs. What can have more priority than the safety of schoolchildren on the corner of Stoney Creek Road and King Georges Road at Beverly Hills Public School? I received a letter from the school's parents and citizens association outlining the nature of the problem that occurs every afternoon at the school. The association stated in its letter:

Each afternoon, the children who catch the bus on Stoney Creek Road are escorted to the bus stop by a member of the school's

executive staff. On at least two occasions, while the children have been waiting for the bus, traffic accidents have occurred because of the bottle neck caused by the altered traffic conditions due to the tidal flow. One of these incidents had the potential to be extremely serious as a truck clipped a pole bringing down power lines. Had the accident been a little closer to where the children were waiting, the results could have been catastrophic.

The Minister for Transport should have another look at the advice the RTA gave him about these noise mounds. The cost of the project was only \$200,000 - a small amount compared with the \$50 million that the Government found for Leightons Interlink - the project constructors for the M5 tollway. The Government was able to find \$50 million by way of loans for Leightons Interlink but cannot find \$200,000 to deliver on a commitment given by the former Premier, the former member for Earlwood, the RTA and representatives of the metropolitan east section of the Department of School Education. It is there in the minutes of the meeting of 7th May. Those minutes talk not about whether the project will go ahead, but when. The minutes refer also to where the fill will come from and the cost of the project. Since 7th May, 1991, the Government has been looking for ways to renege on the promise. It is time the Minister looked at this and delivered on the Government's promise to build those noise mounds in order to alleviate the noise pollution problems for the students of that school.

**Mr PHILLIPS** (Miranda - Minister for Health) [5.27]: I thank the honourable member for Hurstville for bringing this matter to the attention of the House. Those who live in Sydney's southern suburbs, down in the St George area and Sutherland Shire, would know King Georges Road quite well and would probably know Beverly Hills Public School, which is situated on the Stoney Creek Road intersection. It is a difficult intersection with enormous amounts of traffic, noise and pollution. The school is a fine school and recently it celebrated its centenary. I well remember the previous member for Hurstville, Guy Yeomans, together with Phil White, who was then the member for Earlwood, making significant representations for the provision of pedestrian overpasses at the school. The overpasses have now been built. Those members also sought money for the school's centenary celebrations. I well remember the campaign at that time.

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I am sure honourable members acknowledge the difficulties of that school, given its location. The noise problem has been an ongoing problem and must be resolved. Given all the traffic problems in that part of Sydney, I am personally convinced that one thing must happen, that is, to build the rest of expressway. It is about time it was completed. It is years and years and years overdue. Unfortunately, with significant cutbacks in road funding by the Federal Government, there will be a further holdup as this Government tries to catch up with a long overdue road rebuilding program in this State. The coalition parties inherited a list of road building projects when it came to office. However, I am sure that most people would acknowledge the great work the Government is doing in this regard. I will raise the matter with the Minister to see whether the RTA can assist the honourable member for Hurstville.

### **BARMEDMAN MINERAL SPA AND POOL**

**Mr CRUICKSHANK** (Murrumbidgee) [5.29]: I rise on a matter which is of great concern to the people in the eastern part of my electorate, namely, the small town of Barmedman, which is halfway between Temora and West Wyalong. I should like to read the opening few sentences from a letter written to me by a member of the committee responsible for the maintenance of the Barmedman mineral spa and pool:

Dear Mr Cruickshank,

On Monday (12th July) I witnessed open feelings of absolute disbelief and utter hopelessness when a group of Barmedman people met with Bland Shire Council representatives and an officer from the Department of Health, Bathurst.

Barmedman Mineral Pool has to be "disinfected" (water filtered and chlorinated), diving boards and wheel removed because people may hurt themselves . . . It seems when legislation was passed in 1991 no thought was given to its implications to Mineral Pools etc.

The Department of Health said that the pool should be closed. I can vouch for the horror felt by the people of Barmedman. It is only a small town and it does have a unique water supply. Many people travel from many miles around, and even from other States, to swim in the pool in the belief that the water cures arthritic problems and skin ailments. The water is highly mineralised and it is very salty. The pool is the heart of the town of Barmedman. This is typical of legislation that has been passed in globo. It has really come up against a wall here because this situation does not fit in with the normal requirements of the Department of Health. In a letter dated 13th August, 1993, to Mr Dunstall, General Manager, Bland Shire Council, a representative of the Department of Health said:

Water samples taken by your council have shown the existence of coliforms proving that the water is contaminated.

The swimming pool water does not meet National Health & Medical Research Council (NHMRC) guidelines for water used for recreational purposes.

That dictum should not be applied to the Barmedman pool. Just up the road at Temora is an artificial lake which has been declared a recreational reserve. There is no question of anyone trying to close that lake because it does not fall under the purview of the Act. Narrandera has Lake Talbot, another large lake, which is also a recreation reserve and, as such, does not fall within the purview of the Act. I ask the Minister whether it is possible, with the permission of the department, to have the pool classified as a recreational reserve.

It is the only real attraction that Barmedman has, and to say that its people are shocked is an understatement. My request is that it be declared a recreation area. In 42 years no one has ever reported sickness or illness resulting from swimming in the pool. The water is crystal clear when it comes out of the ground. It runs downhill into the pool. I concede that it has a muddy floor and improvements have been added to it - fences and gates - but it is no more muddy than the Temora Lake and no less turbid than the water in Lake Talbot. Thus the claims that it will harm people are unfounded.

The pool would cease to exist if the Department of Health were to erect signs stating that the water is not fit for swimming in. The cost of chlorination would be more than \$1 million and, therefore, is totally out of the question. The swimming season starts very soon, and my constituents would like a decision by the department as soon as possible. This has to be an exception to the law. If the Department of Health erects signs around the pool, a source of livelihood would be taken from the town. Though entry to the pool is free, the town makes money from the patrons of the pool spending money on accommodation and food. The pool is run voluntarily. There is no evidence of it being run for profit. I would like the department to give very serious consideration to treating this issue as an exception. [*Time expired.*]

#### **GUARDIANSHIP BOARD AND Mrs M. URQUHART**

**Mr SHEDDEN** (Bankstown) [5.34]: I bring to the attention of the House concerns of Mr Robert Urquhart of Yagoona, a constituent of mine, regarding his complaint about the Guardianship Board and the Protective Commissioner relating to the administration of the affairs of his mother, Mrs Millicent Urquhart. In 1973 Mr Urquhart purchased a house at 13 Collins Street, Seven Hills, and gave his mother, who is 83 years old, life tenancy. It appears that Mrs Urquhart has had a long history of chronic alcoholism and is suffering from auditory and visual paranoid delusions. Soon after taking up the lease, Mrs Urquhart had the locks changed and would not admit her son into the house.

Over the years Mrs Urquhart collected many cats, keeping them in the house against her son's wishes. During this time he received many complaints from Blacktown Council, started by neighbours stating that the smell emanating from the

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house was a health hazard and that the problem must be attended to, to avoid court action. As well, because of her paranoia, she constantly telephoned Seven Hills police stating that her son was continually breaking into her

house and stealing items, namely, a white mink coat, a garden shed and an army tin helmet. In 1990 she fell and broke her hip and arm, and after leaving hospital her son had her placed in a nursing home. The matron of the nursing home contacted the Guardianship Board with the intention of having Mrs Urquhart returned to the house at Seven Hills, which her son strongly opposed because he believed that his mother required close supervision.

In June 1992 I made representations to the then Attorney General and waited three months for a reply. In his reply the Attorney indicated that the Protective Commissioner informed him that Mrs Urquhart would continue to reside at 13 Collins Street, Seven Hills, with the assistance of Home Care Services providing her with shopping, banking, personal care, cleaning and washing, as well as Meals-on-Wheels. He also indicated that her progress would be closely monitored by staff from the geriatric assessment team, which is part of community health service. He said that a report was recently received from a psychiatrist who indicated that Mrs Urquhart was well enough to continue to reside at the property. I was amazed - as were Mr Urquhart and Mrs Urquhart's neighbours - at this so-called professional decision, considering Mrs Urquhart's health condition and her living conditions, which undoubtedly had become appalling.

After further consultations with the Guardianship Board I was informed that Mrs Urquhart was receiving eight hours a week of home and community care consisting of personal care, showering, vacuuming, assistance to tidy the bedroom, changing sheets, personal washing, emptying a commode and attending to litter trays, shopping, food, household goods, clothing, et cetera, and linen service once a week. Since that time I have continued to communicate with the Guardianship Board on Mr Urquhart's behalf until some months ago when Mrs Urquhart was found at 8 am lying in her front yard where she had spent the night, presumably falling after pursuing her cats. On 21st July, 1993, I again communicated with the Deputy Public Guardian as to Mrs Urquhart's future. On 26th July, 1993, I received a fax which stated:

We are waiting on a written report from the psychogeriatrician prior to being able to form a view as to whether there should be a change in Mrs Urquhart's accommodation.

Considering what Mrs Urquhart had been through, I was amazed at all the welfare agencies as well as professional support and assessment Mrs Urquhart was supposed to receive through her appointed guardian. I shall read to honourable members a description of the condition of the house as found by her son after Mrs Urquhart was admitted to hospital: clothing, including dirty underwear piled in a corner of the room with rotting fruit; partly eaten sandwiches and loose cat food mixed through the pile; sprouting potatoes, lollies and pieces of fruitcake. A bedside table contained half a dozen pieces of decaying fruit, clearly visible from any position in the room. In front of this table was a commode chair and beneath and around the chair was a large, wet, slimy patch of carpet, obviously stale urine by the smell.

Underneath the bed, cutlery and crockery had been stored, and several aluminium containers with half-eaten food were also found, together with toilet rolls, soap, old papers and shoes. Almost one-third of the dining room carpet was covered with ingrained food and drink. Several neighbours who came to the house at the time were amazed at the mess, given the amount of service received. Clearly, it is a reflection on the inadequate administration of the appointed guardian, who I believe is Ms Sue Barker. To my knowledge she has visited the house only once, and that was in the company of Peter Newman. Both visited the house at Mr Urquhart's invitation. [*Time expired.*]

## **MAITLAND HOSPITAL REDEVELOPMENT**

**Mr BLACKMORE** (Maitland) [5.39]: This evening I wish to dispel yet another untruth that has been peddled by the Leader of the Opposition. Yesterday the Leader of the Opposition said that Maitland Hospital would be privatised by the coalition Government. The Leader of the Opposition is telling lies about Maitland Hospital. He has been proved wrong time and again. Last week \$5 million was allocated in the State Budget for the redevelopment of Maitland Hospital. Tenders have already been called for the main part of that redevelopment. The redevelopment of Maitland Hospital will include a new service and ward block and

refurbishments within existing hospital buildings. The services and ward block will contain the following units and services: a main entry for admission and discharge, an emergency unit, medical imaging, a central sterile supply unit, a linen handling facility, an integrated operating suite, a day surgery unit, a mortuary, and a medical records unit.

The block will also contain a 40-bed medical ward, a 40-bed surgical ward, and a 24-bed acute psychiatric unit. Tenders for the demolition of the former nurses' home were called in August. I expect the demolition to commence at the end of next week. Tenders for the main project were called at the end of August. Tenders will close in September and the tender will be awarded in December. Yesterday the Leader of the Opposition persisted with his ridiculous line about privatising Maitland Hospital, even though the project is under way with public funding. In my opinion that demonstrates just how out of touch the Leader of the Opposition is. So desperate was he for something to include in his response to the Budget Speech that he recycled the old Labor lies. I believe he has embarrassed the local Labor faithful who have been running around Maitland joining in the debate.

Lately the Leader of the Opposition has been very quiet about these statements. He now concedes that the redevelopment of Maitland Hospital will proceed. The Leader of the Opposition, in his  
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response to the Budget Speech yesterday, outlined Labor's alternative budget. It exposes some of the gaping holes and contradictions in Labor's threadbare policies. The Leader of the Opposition promised this year to reduce the State deficit. What a contrast to what he said last year when he promised to double the deficit to the tune of \$2.4 billion. The Leader of the Opposition says the first thing that comes into his head. Yesterday the Treasurer did a rough calculation of the promises that have been made by the Leader of the Opposition. Since the last State election the Leader of the Opposition has made new spending promises totalling \$1.8 billion. And that does not even include the \$1.2 billion in capital works spending that he promised at budget time last year!

For a long time the people of Maitland have waited patiently for the redevelopment of this hospital. Since I became a member of Parliament in 1991 I have been a constant visitor to the office of the Minister for Health and to his department. I have been given an assurance that the redevelopment of Maitland Hospital will proceed and that it will remain publicly funded. I am confident that this project will be completed by 1997. That is something that Labor, in the 10 years that it held the seat of Maitland, could not produce. In 1986 the former Premier made a promise. In 1993 this Government allocated \$5 million to commence redevelopment. The Leader of the Opposition persists with his constant lies about privatisation. For so long as the Leader of the Opposition pursues this line I will continue to raise the matter in the House and demonstrate to the people of Maitland that he is a liar.

**Mr COLLINS** (Willoughby - Treasurer, and Minister for the Arts) [5.44]: I acknowledge the comments made by the honourable member for Maitland. Of course, I completely endorse his comments about the scare tactics employed by the Leader of the Opposition in relation to Maitland Hospital. As Treasurer it gave me great pleasure and a sense of pride to see Maitland Hospital included in the Budget for a major and long overdue overhaul. There is a need for the people of Maitland and surrounding areas to have long overdue improvements carried out to their hospital. The honourable member for Maitland read out a comprehensive and varied list of new and improved services for the people of Maitland. It is extremely apt to reassure the people of Maitland that the claims made by the Leader of the Opposition about the hospital are false - as usual. The Government will maintain and strengthen its commitment to Maitland Hospital.

### **HOUSING REMOVALISTS OPERATIONS**

**Mr FACE** (Charlestown) [5.46]: The matter I am about to raise will involve the portfolios of three Ministers. I wish to refer to housing removalists and various aspects of their operations. From time to time I receive complaints from constituents who say to me that they are unable to transport buildings, and they sheet home the blame to the New South Wales Police Service. Some of the people who have approached me in the past have been sent to me by housing removalists who have failed to do the right thing. The police, quite

rightly, are concerned about public safety, traffic delays and the inconvenience caused to the general public by these removalists. Many honourable members would be aware that, for a period, I was in the traffic section of the New South Wales Police Service. I can safely say that the standard of people attracted to this industry has not improved. From what I have seen the standard has been lowered. It is the role of councils to approve the placement of houses on land in council areas, but it is not their role to determine how the dwellings should be transported. The buildings have to comply with local regulations and ordinances.

In the Newcastle area - the area about which I am complaining - only three of the estimated 10 operators are licensed builders. So why are they tampering with the removal of these buildings? I was told that as of last week only one of those operators was a member of the Housing Removalists Association. The majority of them do not even belong to the relevant association. Because of these unlicensed builders removalists are encouraging people who have purchased a property to take out an owner-builders permit, thus circumventing the removalist's responsibility in law. A barrage of questions have been directed to me in my office concerning substandard buildings being moved to various locations throughout my electorate and being placed next to brand new homes. That is a council matter.

The four areas of concern to which I have referred are not the only areas of concern. I am asking the Minister for Police and Minister for Emergency Services, the Minister for Transport and Minister for Roads, and the Minister for Planning and Minister for Housing to get together with the Lake Macquarie and Newcastle councils and hold some sort of summit. These problems can only get worse in the future. Recent legislation will permit the building of duplexes on blocks of land. Many people with very valuable blocks want to build duplexes. There has been an increase in requests from people wanting to move existing houses to blocks of lesser value in another area. The police have expressed concern that the Roads and Traffic Authority has the right to issue permits. That has resulted in a number of housing removalists lowering their standards.

I understand that many trailers being used do not have adequate brakes and are of questionable safety. Police have every right to be concerned about traffic flows. Standards require removable buildings, from memory, to be no wider than about six metres. Removalists, trying to avoid cutting a house in half, ask members of Parliament to use their influence with police and the RTA to allow the removalists to do as they like. I have written to the Minister for Transport about apparent relaxation by the RTA of its standards. I have been informed by police acquaintances in the Newcastle area that some operators do not have permits for the gear they operate. If that is so, the problem is all the more serious.

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I assure Ministers that this is a time bomb ready to go off. I have written to local government bodies suggesting that they should confer in an attempt to resolve this problem. It will continue because there is a trend towards moving duplex houses to other sites. I am worried about safety on New South Wales roads. The problem probably is not confined to the Hunter; it may be statewide. It is very dangerous for large trucks with inadequate brakes to transport homes without having permits to do so. There is considerable tonnage involved. I ask the various Ministers, and the Minister for Police, to investigate the matter.

#### **MURRAY ELECTORATE AGRONOMISTS**

**Mr SMALL** (Murray) [5.51]: I wish to raise the important issue of the lack of agronomists in the Murray electorate. The problem could also apply throughout New South Wales. It has become a matter of grave concern in the last two years. At present there are no agronomists in the Lockhart, Jerilderie and Barham districts. I have had discussions and correspondence with the former Minister for Agriculture, and I am pleased that the present Minister for Agriculture and Fisheries is in the House. The lack of trainees in agriculture will aggravate the shortage in agronomists. In agricultural areas such as Lockhart, Jerilderie and Barham there has been a change in technology, with different crops and pastures being grown.

In farming communities that are hurting so much from lack of income, it is important that farmers grow the

best crops and pastures and keep abreast of technology. The Lockhart Farmers Association has expressed concern on a number of occasions. Lockhart has had excellent agronomists such as Helen Turner, who married and moved from the area. It has been difficult to replace her. Until recently, Hay had been without an agronomist for six months. The Government must consider a training system in order to attract more young people to the study of agronomy. Agronomists in service centres such as Wagga Wagga, Finley and Deniliquin provide assistance in fully training young agronomists after they have completed their education.

My plea is that the Minister for Agriculture and Fisheries will do his best to find capable agronomists to fill the vacant positions. Agronomists do not always have to live in the town in which they work. They could work from a place such as Wagga Wagga to service Lockhart, or they could live at Finley and service Jerilderie, but farming communities would much prefer to have agronomists stationed in their towns. Though not always practical, it is important that agronomists be identified with the towns and districts that they service. Farmers obtain a great deal of information from speaking with agronomists with whom they work. They can exchange notes and understand problems that are faced in the agricultural scene. I have written to Dennis Toohey, the regional director in the area, to Kevin Sheridan, the director general at Orange, and to the former and present Ministers in a plea to fill positions of agronomists.

**Mr CAUSLEY** (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [5.55]: I thank the honourable member for Murray for raising this issue tonight. I have received representations from a number of members across the State about similar problems with agronomists. New South Wales Agriculture has made it clear to people who have approached it that it is difficult to find people with training and skills as agronomists. Understandably, people in rural areas are concerned that they cannot get help from agronomists. As I have told the honourable member for Murray and his constituents, and others across the State, the Government will continue to try and find people with the skill and ability to fill the positions. If that is possible, perhaps the concerns of his constituents will be alleviated.

#### **FAIRFIELD BUS-RAIL INTERCHANGE**

**Mr IRWIN** (Fairfield) [5.56]: I wish to raise an issue concerning the design of the newly constructed bus-rail interchange at Fairfield. Before members opposite begin congratulating themselves for their generosity to the people of Fairfield, I would remind them that the project was fully funded under the Federal Government's better cities program. The design and construction of the project was, however, under the supervision of the New South Wales Department of Transport. At a cost of \$650,000 the project involved the reconstruction of the existing bus-rail interchange to provide safer access for passengers transferring from trains to buses and taxis, with the design fitting in with the extensively restored station buildings at Fairfield.

Fairfield is the oldest railway station building still in use, with many of the buildings dating back before 1876. Fairfield is in fact the oldest railway station on its original site in New South Wales, its first platform having been constructed in 1856. The interchange was opened for use in July this year. Since then a number of shortcomings in the design have come to light. In an endeavour to have the design of the interchange buildings complement the historic station buildings, the design incorporates shelters with high gable roofs, backed by glass partitions. While the design is aesthetically pleasing and sympathetic to its surroundings, from reports I have received from commuters using the interchange, the buildings offer little protection from the elements and are reported to offer less shelter than the buildings they replaced.

In recent days, which have seen heavy rainfall, commuters have reported that the shelter areas adjacent to the bus stops have been almost totally exposed. It is quite impossible to find a dry spot under the shelters. Concern has also been expressed that the shelters will offer little protection from the sun in the hot summer months; the small shaded areas and extensive use of glass can be expected to turn the shelters into hothouses in summer. The Fairfield bus-rail interchange is one of the most used facilities of its type in this State; it serves bus routes covering a

serves two of the largest schools in the State - Patrician Brothers, Fairfield and Fairfield High School, both having over 1,500 students. It is obvious that the designers of the project and the New South Wales Department of Transport have little knowledge of the needs of commuters and of designing protection for them from the elements.

Of further concern has been the failure of the Department of Transport to include in the design of the interchange area any provision for cyclists. Cycling has become an efficient means of transport to stations such as Fairfield. However, the lack of appropriate secure facilities for the storage of bicycles at Fairfield means that the increasing number of cyclists who would otherwise make use of that mode of transport face the risk of theft or damage to their bicycles. I call upon the Minister for Transport to re-evaluate the design of the Fairfield bus interchange and to modify existing structures to improve the level of protection from the elements for commuters. I ask also that as a matter of priority the Department of Transport undertake work to install secure bicycle racks at Fairfield station.

### **ST IVES TO BELROSE ROAD PROPOSAL**

**Mr HUMPHERSON** (Davidson) [6.0]: I raise a matter that is pertinent and of considerable interest to many of my constituents. A former Roads and Traffic Authority corridor of land that extends from St Ives to Belrose and towards Cromer in the east was abandoned by the RTA in 1991. The land was considered to be redundant and surplus to the needs of the authority, because it had been duplicated by Mona Vale Road since it was originally reserved in 1951. The development of a road would never have occurred. It would have been an expensive exercise, not only in engineering terms but in terms of the environment. The proposed road would have passed through what was formerly Davidson State Recreation Area, which is now Garigal National Park, between St Ives and Belrose. The road would have had extensive viaduct structures and would have significantly damaged local bushland.

Since the abandonment of the corridor the Department of Planning has undertaken a study to access the appropriate use of the land, which stretches through Belrose for about 2.5 kilometres and is about 18 metres in width. The study, which is at present on exhibition by Warringah Council, proposes primarily residential use of the site. The majority of the land is to be zoned residential 2(e). That zoning would permit mixed residential use - a mixture of traditional residential dwellings, town houses and villa homes. The council has identified a need for that type of development in the Warringah area and is likely to support the proposal in principle. Last Monday, in an endeavour to ascertain the views of local residents, I held a public meeting at Belrose. Residents put forward a variety of views. Some opposed the plan and some were in favour of it. I agreed to convey their concerns to the Minister for Planning.

Some local residents want the corridor to be retained and a four-lane arterial road to be constructed to connect the area to St Ives; some believe there is potential for it to become a transit link in a mass transit system; others would prefer that the land remain as open space while some others, especially the younger people who attended the meeting, see the need for mixed residential housing. One of the specific concerns expressed related to traffic. If 200 or 250 residential dwellings were built on the land there would be the potential for increased traffic movements in the surrounding streets, namely, Everton Road and Pringle Avenue at Belrose, both of which are feeder roads leading to Forest Way.

A further concern, depending on the size and density of dwellings that would be permitted on the allotments, was the impact on adjoining residences, especially in regard to loss of privacy and overshadowing. An open creek through the area follows more or less the route of the corridor. That drain floods in times of heavy rain, and that is of concern especially to residents towards the Garigal National Park end of the corridor. There is a demonstrated need for open space in the region. Any outcome would need to take into account that recognised requirement for passive recreation facilities. Primarily the concerns of the residents revolve around consultation. They want to be reassured, as I believe they should be by the Minister, that consultation will occur and that they will be given the opportunity to have their say at this stage, and if the development of the land proceeds they want their needs and desires to be made known. I raise the matter in an attempt to gain

acknowledgment by the Minister of the concerns of local residents.

**Mr COLLINS** (Willoughby - Treasurer, and Minister for the Arts) [6.5]: On behalf of the Minister for Planning and Minister for Housing I thank the honourable member for Davidson for briefing the Minister on the matter that he intended to raise this evening. I have been asked by the Minister to pass on the following information. First, the Minister acknowledges the concerns that have been raised by the honourable member and is keen to examine them carefully. He points out that the corridor to which the honourable member for Davidson referred is redundant and that the abandonment will not be reversed. Warringah Council and Ku-ring-gai Council supported the abandonment of the corridor. Second, a council working party has been established to address community concerns such as the provision of open space, drainage and traffic issues, and the compatibility of future development - issues raised by the honourable member. Third, residents can be assured that careful consideration will be given to their concerns if and when Warringah Council submits a draft local environmental plan to the Minister recommending changes to the zoning of any land within the abandoned road corridor.

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### **FIRE INSURANCE LEVY**

**Mr DAVOREN** (Lakemba) [6.6]: I draw the attention of honourable members to a motion carried recently at the 1993 Local Government Association Convention, which recommended that in future the fire levy be calculated on the basis of relative income rather than relative land value. I imagine that the Government will give consideration to the association's motion. With that in mind I ask the Government to take note of the submissions that I make, which are contrary to the terms of the motion. Information recently obtained from the Local Government Association shows that if the State Government were to adopt rate income as the relative base for levying the charge, Canterbury Council's share of the cost of fire protection in the Sydney fire district would increase.

It has been estimated that the increase for 1993 would be \$73,000, or 14.26 per cent, on the amount already paid. However, 20 other councils, mainly in the eastern and northern suburbs, would benefit from the change. That may have been the motive behind the resolution passed by the Local Government Association. The levy to be paid by councils will increase by varying amounts, ranging from 0.57 per cent for Hornsby to 52.26 per cent for Mosman. However, 16 councils, including Canterbury Council, will be disadvantaged. I have referred already to the increase in the share of the cost that would have to be met by Canterbury Council. The increase for Manly Council would be 0.38 per cent and for Liverpool Council 112.2 per cent. That is a substantial increase.

Some local government councillors have expressed concern that land value and revenue do not take into account the contents of buildings that are protected by the fire service and are not necessarily a good indicator of the owner's ability to pay. That is important when examining the matter; after all, insurance companies pay considerable premiums for the fire service. I shall refer to that matter in a moment. There are a large number of underinsured and uninsured premises. Some estimates put the figure at about 50 per cent. Rates are a regressive form of taxation, as I am sure all honourable members agree. For 1993 the Board of Fire Commissioners estimates that it will need \$136.396 million to fund operations within the Sydney fire district. Insurance companies pay 75 per cent of that figure, which amounts to \$102.297 million. The New South Wales Government contributes 12.5 per cent, which is \$17 million. Metropolitan councils contribute another \$17 million.

Council's share of the levy in 1993 is equivalent to expenditure in Canterbury Council's area of \$4 million. Canterbury Council has two fire stations providing an excellent service for residents. Those fire stations respond quickly to an emergency, but in reality not many fires occur in that area. Ordinary householders are subsidising industrial and commercial property-owners to a large extent because of inequities in the present system of insurance and rating brought about by risk management, non-insurance, underinsurance and overseas insurance. Though the percentage contribution appears adequate, it would be to the detriment of councils,

especially councils in my area and in the west, if the basis for the calculation of the fire levy were changed. I am sure that when the Government considers the matter, which undoubtedly will be raised by the Local Government Association, it will give due consideration to possible inequities that may occur if the basis of calculation of the fire levy is changed.

**Private members' statements noted.**

*[Mr Acting-Speaker (Mr Rixon) left the chair at 6.12 p.m. The House resumed at 7.30 p.m.]*

**TREASURER AND MINISTER FOR THE ARTS DEFAMATION ACTION**

**Motion**

**Debate resumed from an earlier hour.**

**Mr O'DOHERTY** (Ku-ring-gai) [7.30]: I conclude my remarks by saying that the Parliament should acknowledge the leadership of the Premier, the Government and the Minister for Health on this issue and the despicable and disgraceful attack the Opposition has mounted over the past week and a half. Today's actions of the Opposition should be judged as childish, feeble and pathetic attempts to outstep, outmanoeuvre and second-guess the Government over the question of the reference to the Independent Commission Against Corruption. We saw the spectacle that occurred earlier today when the Opposition tried to move similar motions to that already proposed by the Government. At one stage the arrogant Leader of the Opposition stood without the call, and spoke across the top of the Premier in a blatant disregard for the role of a member speaker - a performance we are becoming accustomed to.

What were the antics all about? Why go on with that childish charade? If the Opposition wants a reference to the ICAC - which is what it said it wanted - surely that would be achieved by the measures proposed by the Government. Why play games? Why have this debate? Why not let the reference to the ICAC proceed in the manner proposed by the Government? Why conduct these childish antics? The answer, of course, is that the last thing the Opposition wants is the truth. The primary purpose of what the Opposition is after is to put its spin on the events to make it look like its members are always on the front foot and are always winning. It is win at all costs and take no prisoners. That is rejected by members on this side of the House because it has nothing to do with the sensible management of New South Wales.

If the Opposition were truly interested in the facts, if the Opposition were truly interested in the process, if the Opposition were truly interested in the truth, we would not have to go through this timewasting charade. The matter could have been sent to the ICAC where it would now be under

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investigation and the people of New South Wales would know that the Parliament was looking after their best interests. But that is not what Bob Carr and his team is all about. That arrogant man and his increasingly desperate team are simply pouting children saying, "No, we will move the motion; we will do this; we will do that. We did it first; we thought of it first. Our playground is bigger than your playground". That approach is rejected. It is a stupid, silly game and ought to end right here.

**Mr WINDSOR** (Tamworth) [7.33]: I should like to speak briefly on this matter. For the past two weeks I have sat rather patiently, listening to question time, looking at the papers and examining the supposed issues involved in the debate. Quite frankly, I believe I would be fairly representative of a degree of the community in my disgust at what has happened in this House, the time that has been consumed in this debate and the degree of politics being played around it. Community awareness is growing that it is time this Parliament made decisions for the betterment of the people of New South Wales. Today we have seen a classic example of timewasting and political games. My Independent colleagues, in a sense, though I am not a member of their party, have been railroaded into a position. The honourable member for South Coast, who sits opposite me at this moment, should examine why he is in this Parliament and what he is attempting to achieve by the farce we are going

through.

I was involved in a meeting this afternoon with members of the staff of the minerals Minister. There were approximately eight to 10 heads of the department who, over a long period of time, had organised the meeting so that the four Independents could meet to look at the issues that revolved around what was happening within the mining industry of New South Wales, what could happen, what was not happening, what the problems were and what the issues were. That meeting had been arranged with me via the honourable member for Manly, Dr Peter Macdonald. The other Independents proposed to attend that meeting. I believed that was a positive approach for them to take. They were to be briefed on issues that were very important to the economic development of this State over a wide perspective, for we were looking at developmental issues, constraints on development, and environmental issues. What happened?

This afternoon I was disgusted because the three so-called non-aligned Independents did not find the time to attend that briefing. Why did they not find the time? It was clear at question time and immediately after that this process over which we have been wasting time for the last week or so was pre-destined to go to the ICAC. There was no need for those members to parade here and to glorify in the humiliation of the Government or Peter Collins or whoever else. The destiny of this issue had been determined. It highlights the concern being fed to me by the wider community that it is about time this Parliament started to address very important issues that the State faces. I am not suggesting the Government stands brilliantly in relation to this, but I am saying that the non-aligned Independents - the Independent party, as I refer to them - are being used as pawns to create an environment in which the State will become unmanageable.

I say here and now that if that is the intent of the Independents, they should say it to the Parliament. They should let me know, as another Independent member. At this stage I am quite prepared to vote in favour of the Parliament going to an election. I realise that is going to be very difficult because I do not believe the other three Independents wish to face an election. I believe the damage that is being done to the management of this State far outweighs the advantages that the Opposition or the non-aligned Independents or the Independent member for Tamworth or the Government can gather through the farce that is proceeding.

It is time that we as parliamentarians, irrespective of our own personal agendas, realised we are creating problems. It is time for us to get on with the business of managing the State. I do not believe that the honourable member for South Coast, the honourable member for Bligh and the honourable member for Manly are being coerced into these crazy games. The time that has been wasted today talking about something that was destined to go to the ICAC is not doing any good. It is time we stopped playing politics on this issue. It is time the Labor Opposition stopped playing politics with the Independent party and it is time the Independent party recognised why it is here, instead of trying to play God and to dictate to the rest of the State what is good for it.

A classic example arose this afternoon when the Minister for Agriculture and Fisheries, the Hon. Ian Causley, organised a meeting with the Independents. I also have attempted to organise meetings, to provide some information on which decisions could be based. Time and again the Independents are too busy, or it is too hard. They are making irrational decisions. Before I came to this place I admired the honourable member for South Coast, but I believe he is one of the greatest hypocrites in this place because of the irrationality of his decision-making. It is time for him to recognise that he is not the moral guardian of this nation, that he is not the holder of all knowledge, and that he should sit and listen to what people are trying to say to him.

**Mr Hatton:** I did all that this afternoon when you were out of the House.

**Mr WINDSOR:** But there has been so much rubbish said in debate in the past few days. The honourable member did not have to sit here and listen to it. He has heard it before. I was sitting next to him on the first day the issue was raised and he had no understanding of what it was about. He had no understanding of what Dr Ryan had been through. The honourable member believed that Mr Collins had taken money from the taxpayers. The honourable member had no idea. He fell into the same trap that Alan Jones had fallen into earlier in the morning. The honourable member did not understand the

position. He took a pre-set stance with absolutely no knowledge of the circumstances. Though I have my philosophical views, as an Independent member I was embarrassed by the honourable member's lack of knowledge of the situation. I believed the honourable member to be one of the great members of this place, but he and the honourable member for Manly and the honourable member for Bligh are being coerced by the Labor Opposition into making a mockery of being an Independent.

The honourable member for South Coast has a greater responsibility to the State and to himself to look at these issues on a broader basis than he has done. It is great for the Labor Opposition to take advantage of the circumstances and to use the Independents as pawns. If the Independents want the Labor Opposition to govern this State I would like to know. If they want that to happen, let it happen. However, they should not leave New South Wales in this state of uncertainty. Every issue here is referred to a select committee or to a committee of inquiry for further debate. I might be aligned, in the eyes of the media and everyone else, with the Government. I have a philosophical view inclined towards the philosophical leanings of the Government.

The honourable member for South Coast and the other two unaligned Independents - as they all call themselves - profess not to have philosophical leanings. But I sit in this place and my view is that if they are philosophically aligned, as they seem to be, with the Labor Party, why do they not put them in office instead of playing this stupid game with the people of New South Wales? It is my view that the people of this State have had enough of this game. A degree of integrity must be restored to this place. If that means going to an election, even though that might erode my position of prominence within this place, I would support that. I say to members opposite, and particularly to the three so-called non-aligned Independents, that if they want to clarify this position -

**Mr Whelan:** Who wrote this?

**Mr WINDSOR:** This is an unwritten speech. I will support the Independents if they want to go to an election because I believe it is time to clear the uncertainty. The honourable member for Ashfield is one of the greatest to blame for the present circumstances. It is time we stopped playing politics with this State. I have made the points that I want to make. It is time, irrespective of our political leanings and the games we play in this place - and the honourable member for Ashfield is great at them and so are Government members - to start to take into account those who live in this State. They live in electorates other than Manly, Bligh and South Coast. Time and again I and others have tried to get to the Independents to talk about economic issues. It is ridiculous that they are always too busy, too tired, too this, too that, too inundated with rubbish. They are playing games with many of the issues that come to this place, yet those issues may mean nothing to the people of this State. This issue involving Mr Collins means nothing to the people of New South Wales. It is time that the Independents put their eyes back on the ball and addressed the game.

**Mr HATTON (South Coast) [7.46]:** I hope that the honourable member for Tamworth will remain in the House to hear my contribution. I did not, and neither did my colleagues, sell out my principles for a police station or a court house. We entered into an arrangement with the Government based on principles to reform the way this place is run. I do not need to be lectured by the honourable member for Tamworth. For example, today we met with concerned Kooris and with the Environmental Defender's Office. I chaired a HomeFund committee meeting. I had a request by Minister Cohen for a meeting but could not accede to that. I met Minister West on two occasions. There is a meeting tonight about the charter. Every minute of my time and that of my colleagues in this House is spent meeting the Government or the Opposition, discussing and analysing legislation, attending briefings, yet this man has the hide to stand here and say that we do not have time to attend briefings or to meet him. He knows that is a lie. He knows that the Independents have never turned him down; we have never turned down anyone. We have tried hard to meet all the interest groups, the Government, the Opposition, the Whips, to try to make this place work. He is talking a pack of rubbish and he knows it is a pack of rubbish.

I apologised to Mr Causley for not attending his meeting. My place is in this House when a reference is being made to the ICAC. The honourable member's place is in this House when a reference is made to the

ICAC. I was apologetic. I tried to reschedule the meeting, but it was not possible. Today I had my first sit-down meal for the week. I had sandwiches all day yesterday. The member for Tamworth cannot lecture me about how to work and what my responsibilities are in this House. This debate is occurring because the Government approached the Independents. The Government wanted to bring this matter on. That is why it is before the House. A matter of process was brought up by the Minister for Health. The Government wanted suspension of standing orders and approached the Independents for support for suspension. The Government wanted a full debate, then it changed its mind and wanted a limited debate, and that issue was discussed with the Independents. A compromise arrangement was made that there would not be a full debate with unlimited time, but time allocations would apply.

The Minister for Health says he telephoned and offered more information. He did ring me. He rang me last Monday and offered more information. I told him I had not gone through all of the papers because I had had to go to Canberra urgently that weekend but, if I needed to, I would get back to him. It is quite obvious from what he said in the House today that that was the oldest trick in the book. The oldest trick in the book, under freedom of information, is knowing what to ask for. I will tell you that he came

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to my room last week and gave me a heap of papers. I thought they were it. But what happened when standing orders forced him and the Government to produce papers? There was a barrow load. How was I to know what to ask for? How was I to know that there was a heap of paper that had been held back? What sort of nonsense are we talking?

The Minister for Health said in this House last night, and it is reported in *Hansard*, that he did not know what was on file. So how in hell's name could I ask him for what was on the file? To go to the wall on this thing you needed to know all the information, and it has to be on the table. We do not like being in the middle when someone puts a grenade on the table and pulls out the pin but, by jingo, we will accept our responsibility, member for Tamworth, and we will make up our minds and we will do our best. If you want to side with the Government to get a police station and a court house, that is your responsibility, but do not lecture to us while you are doing that.

My next point concerns the question of legal documents being regarded as sacrosanct. What has to be understood quite clearly is the supremacy of Parliament. If public money is being spent, and if there is a question about whether the Auditor-General has the right to follow that public dollar - I have taken that view with HomeFund and in many other matters - this Parliament has a right to follow that public dollar. I do not care what the lawyers say. If it happens to be that papers have to be produced here to do with a defamation action between two people, one of whom happens to be the Treasurer of this State, I have no embarrassment whatsoever in asking that those papers be here.

I suspect that it is something that will be dear to the heart of the honourable member for Tamworth to know that I would really love to be able to do that with all the court settlements when people were cheated by banks, when laws were broken, and the way for the banks to beat the poor little person was to single out the activists and settle only with them, through the courts, so that the settlement documents were never seen. I will never wear that where this Parliament is concerned. The requirement to produce documents is not a misuse of parliamentary process, it is part of the role of Parliament. The things that are often overlooked time and again, sometimes on both sides of the House, are the sums involved. I spoke to shop assistants earning \$183.15 a week and, with a little overtime, maybe \$214. For them \$180,000 is nine years' wages.

The member for Tamworth does not think it is significant to the people of New South Wales. I tell him that there are a lot of people out there in TV land who are earning less than \$25,000 a year and who would look at a \$100,000 settlement in a private defamation case, using taxpayers' money, as being important. It is important all right, and it is worth the time of this Parliament. If it took days or weeks to get to the truth because the Government did not want to refer it to the ICAC in the first place, who should apologise for that? Certainly not me or my Independent colleagues. If the Government had wanted to make a clean sheet, that should have been done on day one. Do not be dragged screaming to do it.

My role in this matter goes back to 1988. I knew Dr Ryan. I said to Minister Phillips, when he came to my office, "Ron, I want to tell you that I have every faith in your integrity in this matter. I do not question your integrity in this matter". But the fact is that when he attacked Michael Ryan yesterday and intimated that he acted for political purposes, he lost a lot of my admiration. Michael Ryan is a good man. Michael Ryan is a sincere man. Michael Ryan really worked his guts out for handicapped adults and children in this State and was upset about the Richmond scheme and about the attacks being made on it by the then Opposition spokesman on health. Sure, he was egged on by the department and did an injudicious thing: he wrote to a provincial newspaper and for that he was sued.

Then he contacted me. He was obviously afraid of the consequences. I wrote to Minister Collins, who was then Minister for Health and I said, "This is not a simple matter. Please settle. Here you have a good public servant. You are now the Minister. Settle with this man and start with a clean sheet. He is prepared to apologise". But, I tell you what, Minister Collins wanted to drive that man into the deck! It was a different story when the Minister lost the case. I want to know what happened after he lost the case that resulted in the department and the taxpayers paying costs that were awarded against a Minister of the Crown. That is what I want to know. I make no apologies for that.

And if the ICAC is going to find that out, and if it exonerates the Minister, okay. But I make no apologies for falling in behind any move in this House that wants to know what all the documents say. I have been in this House a long time; I have seen some tough debate and I have seen some tough questioning. But the difference between this Parliament and other parliaments is when the Government has the numbers it can treat the Parliament, and its process, with contempt. The documents never come out. The truth is hidden. What is upsetting some members in this House and why they are so bitter about the Independents is that they cannot get away with it any more. We can use the standing orders, if the Opposition is also interested in doing that, and say, "We want those documents", and those documents have to be produced. Is that not the way a Parliament ought to work?

This Parliament is different. The Government does not have the numbers. We can bring out the truth. That brings out a lot of bitterness. It is a pity that an Independent member has to join the queue to express it. The Government's alibi is: We have nothing to hide. But the Government did not produce all the documents last week, and it had to do so this week. Important and relevant documents were held back. The Government's alibi is: We do not want to produce documents in a private defamation case where

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there has been a private settlement. But what is emerging is that there have been influences on the settlement and that taxpayers' money is involved. These events make it necessary to know what is happening.

The Minister for Health says, "The honourable member for South Coast sets himself up as a judge and jury. He could have had a private briefing. He could have got all the documents". By that statement the Minister for Health is saying that the three Independent members have more rights than any other member of this House and all the public of New South Wales. "Come along to us. We will brief you. We will show you the documents and we will show them to you on a confidential basis, if you like". What sort of democracy is that? What sort of double standard is that? Is that what he means? The fact is that once you go down that track with a public issue and look at things in camera you are obligated. Where does that leave you when there is a decision on the floor of the House and you have to debate it and say, "I am sorry, fellow members of Parliament. Sorry, New South Wales. I cannot tell you what the briefing told me, but I can tell you that that briefing convinced me". That is not good enough where public dollars are involved.

I am not going to join the queue of keeping something confidential in a matter where public dollars are involved. If the logic is that we are in the middle and that we have to judge the issue, but the Minister says that we are involved in some grubby exercise and we set ourselves up as judge and jury, I ask: How else is this House going to work in the present situation? I have no control over the Opposition. I have no control over the Government. If the Government comes in here and wants to do something, it relies on getting that through the Parliament with the three Independents. We are not responsible for having the balance of power; that was a statistical accident. If the Leader of the Opposition wants to do something in this House we have to consider

that question. Do you think we like to be involved in this role? It is the last thing in the world I want. I do not want to have to be in this situation of balance where I have to make a decision. One of the great reliefs to me in this debate is that this Government, to its credit, wishes to refer this matter to the ICAC.

**Mr Tink:** Why are we still here, five hours later, debating it?

**Mr HATTON:** The honourable member should ask the Ministers that question. We need a mechanism for independent assessment; in this case, assessment of the facts by the ICAC. But nothing should take and can take this responsibility from the Parliament. If everything that has a political face in this place has to be referred to an independent body, we have no right to be here. We have to accept that responsibility and do the best we can. However, some important lessons have emerged from this whole matter. First, the Parliament is supreme. So let us hear no more whingeing from the Minister for Health, or anyone else in this House, about these debates and about the fact that the Parliament has to make some sort of decision. That is what we are here for. We cannot run away from it.

Second, the Government does not have the numbers, so the Independents are in the middle of any battle. When the flak is flying we cannot walk away from it. Are we to abstain from every vote in this House? Are we not to say anything about any controversial issue introduced by the Opposition? The Premier and the Government do not realise that they have to travel on two parallel tracks. The first is quite clear. The Government has an agreement with the Independents that is rock solid. It will get its Budget and the Supply Bill through. It will receive the support it needs to remain in Government. However, the Leader of the Opposition and his cohorts will throw grenades, as that is their job. There will be explosions down the line which will have to be dealt with as they occur. But nothing should prevent this Government from continuing to govern until 1995. I am sure that our Prime Minister, Mr Keating, would love that sort of guarantee at the moment. He has to try to get his Budget through the Senate.

I did not hear any criticism of Reverend the Hon. F. J. Nile when he said he was going to hold the Government to ransom because he opposed one bill. He said he would not vote for any other piece of Government legislation unless he got his way on that bill. There was no criticism of Reverend the Hon. F. J. Nile, but a lot of petty comments have been made about the Independents in this House. Talk about double standards! If the Government wanted to avoid this sort of thing, it should have come clean on day one. It would have saved a lot of time. The defamation law needs to be changed. The Treasurer and Minister for the Arts, the former spokesman on health and former Minister for Health, sued someone for publishing a letter in a provincial newspaper. At the end of the day he found that it cost hundreds of thousands of dollars, some of which was paid by the public purse and some of which was paid by the person concerned. I do not believe any honourable member would say that our defamation law is anything other than ludicrous when between a quarter of a million dollars and \$400,000 goes into lawyers' pockets because of a letter concerning a crucial public issue written by a public servant in a political climate to an editor of a provincial newspaper.

That lesson was learned by Mr Cavalier, who sued a Tamworth paper because of a letter written by a public servant. He got a nice settlement and thought he had won the day, but he found that he lost on appeal and it cost him several hundred thousand dollars. Common sense should have prevailed from day one. If it had, we would not be here now. Some compassion should have been shown in this matter instead of the ruthless pursuing of a public servant who made an unwise statement. I do not deny the Treasurer and Minister for the Arts his rights but, in exercising those rights, he took a risk which was all his. And that risk should have remained all his. I am

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delighted that the Government has finally decided to refer this matter to the ICAC. I was approached by the Leader of the Opposition about referring the Womersley affair to the ICAC. I said to the Leader of the Opposition, "A parliamentary reference to the ICAC should be reserved for serious matters". I did not believe that the Womersley affair was a matter that warranted a reference to the ICAC.

**Mr Fahey:** You know nothing about it. You never asked me.

**Mr HATTON:** I had not made up my mind on this matter of a reference to the ICAC. I am glad that the Government has taken this initiative and referred the matter to the ICAC. I look forward to its report.

**Mr FAHEY** (Southern Highlands - Premier, and Minister for Economic Development) [8.5], in reply: This debate has occupied most of this sitting day. Most of question time was taken up by Opposition members referring to this matter. However, some sensible questions were asked by Government members in the interests of the people of New South Wales. For the past 35 minutes I have listened to the contributions of the honourable member for Tamworth and the honourable member for South Coast. I heard various other comments in the course of debate, even though I had to attend meetings with the Aboriginal Land Council. I willingly endeavour to attend such meetings, as do all responsible members. It is not unique for an Independent member of Parliament to have to deal with these sorts of matters on a parliamentary sitting day or any other day of the year.

I will refer to the comments that were made in the course of debate. I listened with great interest to the comments by the honourable member for Tamworth. He expressed the frustrations of many people concerning this matter. I will not complain about the fact that, at this point in time, the Government does not have the numbers. The honourable member for Tamworth made the very valid point that the people of this State are concerned about many things, not just this defamation case, which has been referred to in 21 of the 25 questions asked during question time. The people of this State are not worried about this defamation case, although they might have other concerns.

I was most interested to hear what the honourable member for South Coast had to say. Tonight he raised a number of matters. He said, first, that he has a role to play in this place, as do the other Independents. His role is to balance and to judge and to determine the business of this House. No one has ever asked him to determine the business of this House; he has taken it upon himself to do that. I will continue to ensure that there is co-operation and dialogue between the Government and the Independents. On many occasions the honourable member for South Coast has made it very clear that he would like to obtain the views of other people in this Parliament. That is entirely appropriate. Those references are made by him, not by the Government. Overall, this Government is progressing successfully and it is doing the things that have to be done.

*[Interruption]*

I liked the honourable member's comment: "I do not represent only police stations in my electorate. I will not sell my soul - whatever the motivation - for the purposes of my electorate". I put all members on notice about the way they approach the Government for what they want for their electorates. I ask them to think seriously about what they are doing in their role as representatives of their electorates. I ask them to think seriously about what they are doing in their role as representatives of any electorate and to determine - using their consciences - whether or not, when they approach members of the Government about concerns of their electorate, something is implied in it. Do not say you are not concerned about police stations, schools, roads or hospitals in your electorate.

**Mr SPEAKER:** Order! I call the Minister for Multicultural and Ethnic Affairs to order.

**Mr FAHEY:** One day that debate might come up, and I would like to think that all members had a clear conscience about the way they represented those they were elected to represent. This matter relates to a decision of the Government with regard to a private case. I could spend a lot of time talking about private litigation and civil proceedings. I happen to have a little bit of knowledge on the subject because of my former career. I would just say this: The day that we discard the practices of law, the day that we discard and turn our backs on tradition and say that this Parliament is supreme to the exclusion of centuries of development in the law in private litigation, that will be the day that we start to take on proportions that I do not believe any Parliament was ever established to take on.

The fact is that if private proceedings are before the court we must deliberate long and hard, as Ministers

of the Crown and members of Parliament, about whether we should interfere with those private proceedings, about whether we have the right to turn them over and decide that this Parliament should be the decision makers, to the exclusion of the courts that this Parliament established long before current members were thought of. I would like to hear a lot more debate on that subject. It is a very important principle. We are not supreme to the exclusion of everything else.

Let us return to what this debate is about. I will go back over it all if members want me to. I will refer again to the games that the Opposition is playing, because we know it is playing games. I will refer again to the fact that a private litigation, the subject of this debate, has occupied all of today's proceedings in Parliament. I ask all members to question seriously, objectively, what we are here to determine tonight. The effect of the motion that has been moved by the Government will be to allow - free of political interference - an evaluation of a very thick, detailed file. It will be evaluated not selectively and not in the game of politics as we understand politics in 1993. Even if we do not understand it, that is the practice of politics today in this State and in this country.

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We should allow the body that this Parliament established to look dispassionately at a particular set of circumstances. They happen to involve a private litigant, who also happens to be a Minister of the Crown. I will not walk away from it. I will not walk away from the fact that a government has responsibilities. It has responsibility for the good order of all matters that concern the community, of what affects their daily lives and certainly the public purse. I do not want to be lectured. I heard the word lectured used by the honourable member for South Coast when he said that the Budget and the Supply Bill would go through intact. The bill might go through but we will tickle it for the rest of the year. We will move, through private members bills, to add costs to the people of the State without any due regard to or any proper evaluation of what that means to the integrity of the Budget and what it means to the people of this State who elected this Government.

The majority of the people of the State have determined that I have the right to address this Chamber at this point in time. That is the wish of the people. The Budget is important, but the Budget is not one document. The Budget is a process that exists for the entire year. Let us look at it in its entirety and let us see it for what it is. The Government is trying to do what is right for the people of the State, day in and day out, and doing it, I might add, very successfully.

In his closing remarks the honourable member for South Coast said that the Leader of the Opposition approached him about the Womersley affair - a matter on which I was vilified by all Independents. I was told that I was part of a process that ought to be examined thoroughly. I invited it. I said: "Go for it. Put it to the ICAC. Put the whole thing before ICAC if you believe that when I spoke to another member of my party about the split of a vote on the basis of a potential situation, that there was some wrongdoing involved with that". Heaven forbid! We have gone through the process of producing all sorts of statements, for whatever reason, and they are in the public arena. I have not been asked one question about the matter in the past five days. It is no longer an issue, so you can fire your shots. Talk about the hand grenade that is put on the table from which somebody pulls the pin and the Independents having some responsibility for it. I suggest that the honourable member for South Coast examine what the people of The Hills felt about that situation.

*[Interruption]*

The honourable member for Ashfield should not ask me to wind up. I just might keep going on a few things. Obviously you do not like what I am saying and you are trying your usual process of distraction, destabilisation, and do as you like. You cannot play with people - be they the Premier, the Mayor of Baulkham Hills or any other individual - who might decide, as an individual, that they have rights that they would like to test in the courts of our land in the time-honoured tradition of justice. You cannot play with them, and you cannot pick your cases just because an individual who happens to take defamation action might also happen to be a Minister of the Crown some time after the proceedings are brought. You cannot say, "Let us play games with that". We have seen games played for five days now.

The processes of this Chamber are respected and will continue to be respected by this Government. The will of the Parliament was for the papers to be produced. Those papers refer to bureaucrats, public servants at senior level. I have no problems with that. It became abundantly clear, however, that it was time someone else examined them. I do not want to be the pawn and I do not want this Parliament to be the pawn of politicians. I do not want the documents to be used selectively. I want the body that we established to determine the truth, because I believe in it. I also believe in honesty. Whether or not members opposite think that we play games, I assure them we believe in honesty. While ever I am Premier we will continue to believe in honesty to the utmost degree.

We thought that the appropriate step was to say, "Let us not have this farce. Let us have someone else examine and let them produce a report to the Parliament on what is relevant and what is not relevant in a holistic way". No one asked us to do that. We did it because it was in the interests of the people of the State to do it. The whole of the day's proceedings have been devoted to members agreeing to the process of sending the documentation down the road. The reason that I moved to get it down the road to proper jurisdiction was because of doubts raised by the Independent Commission Against Corruption. I want to remove those doubts. I do not want there to be anything less than the fullest inquiry, the fullest examination and the fullest opportunity to determine - as occurs every day of the week with so many matters involving 320,000 public servants in the State. The Act was established for that purpose, and I will never back away from that Act. It has been the most important thing to happen in terms of honesty in the State of New South Wales. And it has been good for the people.

We are still here working out how to get this matter down the road; still here with the games being played. I am being told by the Leader of the Opposition that I have walked away from my Treasurer, a Treasurer who said, "I want the matter to go down the road. I want it examined. I do not believe I have anything to hide". I will say again that I will not look at the file, because it has nothing to do with me. It involves private proceedings, and the litigant on one side happens to be a government agency.

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

**Mr FAHEY:** I do not mind who examines that file, because it is in the interests of the people that it be examined properly - not in a kangaroo court and not with regard to the opinions or the importance of members. As politicians we are not important in the overall scheme of things. We are here to look after

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the people of New South Wales. I spend 18 hours a day doing that, and I know that many honourable members, including Independent members, do it in the best way they know. I say simply that it is time to deal with the issues that concern the people. Let us have the process and procedures of private litigation - which happened to involve on one side a government agency - determined by the organisation that we established to do just that. Why have we spent the last six hours simply to give it jurisdiction? That is what this is about.

At the commencement of the debate I said that when the matter comes back from the ICAC, whatever recommendations are made and whatever are the circumstances, members will be welcome, so far as the Government is concerned - if that is their wish and the Parliament's wish - to have all the time they want to examine the process and the manner in which the commission has determined the issues. It seems to me that Parliament is being used by certain people to send a message down the road, and that disappoints me. The electorate expects more of us. People expect us to be above all of this, to get above the distractions and to leave the determination of this matter to those who have been given that task and responsibility. There will always be the right to debate.

This whole process is difficult and disappointing to me as an individual member of Parliament. I do not believe this process is in the interests of the people of the State, who will judge it as they judged in The Hills by-election. I do not mean to beat my chest about that, but when I went to the electorate nine times in 19 days people said to me that all they wanted was for me to get on with the job; they did not want the distractions that the Parliament was throwing up day after day. And the people voted that way. I do not say that is the be-all

and end-all. I simply make the point that was made to me every single time I spoke to people in The Hills electorate, when I introduced myself and asked them what were their concerns. I have the statistics to back me up, to show that I am not making this up.

The simple fact of the matter is that this procedure is about ensuring that no money has been spent in any shape or form that might not be right. It is about processes, officers, and public servants who have given a lifetime of service - including Dr Ryan. I was disappointed that Dr Ryan chose to attribute the words that he did to me. That was the first time I knew there was litigation. He conducted a meeting for two hours before that, in a compassionate and serious way, and then informed me about it - as he obviously wanted to - from the footpath as I was getting into my car. It is interesting that four years later he has put his own twist on that. I acknowledge that he has a reputation for being concerned about those with disabilities. He has been abused, he has been hounded - and they are his words - and he has been used by the Labor Party. If that is what Parliament is about, I say to all members of the House that they will be judged in a manner that will lead to those who perpetrate these acts day in and day out being dealt with most unkindly by the people.

I do my best, and I know that most people do their best in their own sincere way. But please, let us get on with what the people of the State want us to get on with. Let us get this matter down to where it should be so that it can be examined, with the opportunity being available - as it has been from the beginning - for the matter to be dealt with by the Parliament, if it deserves to be dealt with by the Parliament. That is a judgment we should make after the Independent Commission Against Corruption deals with it in a proper manner. I commend the motion. I hope that it receives the unanimous support of the House.

**Question - That the amendment be agreed to - put.**

**The House divided.**

**Ayes, 44**

Mr Amery	Mr Martin
Mr Anderson	Mr Mills
Mr A. S. Aquilina	Ms Moore
Mr J. J. Aquilina	Mr Moss
Mr Bowman	Mr J. H. Murray
Mr Carr	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori
Mr Face	Mr E. T. Page
Mr Gaudry	Mr Price
Mr Gibson	Dr Refshauge
Mrs Grusovin	Mr Rogan
Mr Hatton	Mr Rumble
Mr Hunter	Mr Scully
Mr Iemma	Mr Shedden
Mr Irwin	Mr Sullivan
Mr Knowles	Mr Thompson
Mr Langton	Mr Whelan
Mrs Lo Po'	Mr Yeadon
Mr McBride	
Dr Macdonald	<i>Tellers,</i>
Mr McManus	Mr Beckroge
Mr Markham	Mr Davoren

**Noes, 43**

Mr Baird	Mr W. T. J. Murray
Mr Beck	Mr O'Doherty
Mr Blackmore	Mr D. L. Page
Mr Causley	Mr Peacocke
Mr Chappell	Mr Petch
Mrs Chikarovski	Mr Phillips
Mr Cochran	Mr Photios
Mrs Cohen	Mr Richardson
Mr Collins	Mr Rixon
Mr Cruickshank	Mr Schipp
Mr Downy	Mr Small
Mr Fahey	Mr Smith
Mr Fraser	Mr Souris
Mr Glachan	Mr Tink
Mr Hartcher	Mr Turner
Mr Humpherson	Mr West
Dr Kernohan	Mr Windsor
Mr Kinross	Mr Yabsley
Mr Longley	Mr Zammit
Ms Machin	<i>Tellers,</i>
Mr Merton	Mr Jeffery
Mr Morris	Mr Kerr

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#### **Pairs**

Ms Allan	Mr Armstrong
Mr Doyle	Mr Griffiths
Mr Harrison	Mr Hazzard
Mr Knight	Mr Schultz
Mr Ziolkowski	Mr Smiles

**Question so resolved in the affirmative.**

**Amendment agreed to.**

**Motion as amended agreed to.**

**Message sent to the Legislative Council advising it of the resolution.**

#### **CRIMES (DOMESTIC VIOLENCE) AMENDMENT BILL**

#### **BAIL (DOMESTIC VIOLENCE) AMENDMENT BILL**

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

#### **Second Reading**

**Mr FAHEY** (Southern Highlands - Premier, and Minister for Economic Development) [8.38]: I move:

That these bills be now read a second time.

Recent incidents of domestic violence, including the Andrea Patrick case, have raised the question of the capacity of the present criminal law to adequately respond to domestic violence situations. The Government has been for some time concerned about this serious social problem. In response, it now wishes to introduce a comprehensive integrated package of reforms to the Crimes Act and the Bail Act to deal with domestic violence. The two cognate bills before the House will provide enhanced protection to victims of domestic violence and their families.

In brief, the Crimes (Domestic Violence) Amendment Bill implements many of the recommendations of the New South Wales domestic violence strategic plan by overcoming certain ambiguities and apparent weaknesses in the existing legislation. In addition, the bill will increase certain penalties for domestic violence offences. Most importantly, however, the bill will provide a new offence tailored specifically to domestic violence situations, as well as providing much needed protection to victims outside of court hours in urgent cases. The bill empowers authorised justices, upon telephone application by a police officer, to make interim orders outside normal court hours where they believe, on reasonable grounds, that a person may suffer personal injury unless an order is made.

At present, police attending a domestic violence incident out of normal court hours have limited capacity to defuse the situation and prevent further abuse unless there is evidence of the commission of a criminal offence or breach of an existing apprehended violence order. Police are most often called upon to attend such incidents on weekend nights when courts are not sitting. In the light of recent statistics which indicate that over 80 per cent of all homicides in New South Wales are committed by a member of the victim's family or by an acquaintance, the tragic consequences of lack of adequate powers in these circumstances cannot be overstated.

These telephone interim orders are to be limited to orders not to molest, harass, or commit personal injury to a person, in the first instance. It is anticipated that in the majority of cases these limited orders will suffice to contain the domestic violence incident. In some cases, however, an effective response may require both removing the threat of danger and providing ongoing protection to the victim. This protection may not be provided in such cases merely by serving an interim order on the defendant, as police would then be powerless to take further action until the defendant breaches the order.

To provide effective protection, therefore, in the most potentially dangerous instances of domestic confrontation, short of arrest for an offence, it is proposed that an authorised justice be permitted to exclude the defendant from the victim's premises and or from approaching the victim. These enhanced protective interim orders are necessary where the police reasonably believe that the victim's physical safety is in imminent peril, and where the victim would otherwise have to vacate the family home, often at night with small children. It is considered, on balance, that the perpetrator of the danger should be required to leave in such circumstances - not the victim and other innocent family members. The bill provides for the relatively brief duration of such orders before their lapse or prompt review by a court. This will minimise the hardship to defendants, whilst providing necessary short-term protection to victims.

Police will be permitted to direct a person to remain on the premises until the telephone interim order is served on that person. A person who fails to comply with the direction may be arrested and detained until the interim order is served. A telephone interim order may not be issued upon a defendant whom the police have arrested for an offence arising out of the same incident. This restriction will ensure that such orders are only issued where there is no other available option to protect victims after hours. Where the offender is arrested, he or she may be released on bail with protective conditions similar to those of an apprehended violence order. As importantly, the bill also provides for an offence of intimidation tailored specifically to domestic violence.

The new offence fills a gap in the existing criminal law by creating an offence where a defendant engages in any act with the intention or reasonable foresight of putting a victim in fear of his or her personal or family's safety. The act may be any form of intimidation, harassment or molestation. Proof that actual fear was instilled in the victim is not necessary to constitute the offence. The intimidatory behaviour concerned is extended to cover following a person about or watching at the person's home or work. The

proposed offence should act as an important deterrent by permitting the criminal law, in many cases, to act earlier in the process of domestic violence than it is presently capable of doing. No legislation, of course, will deter persons who are committed to killing or injuring their partners or family members.

However, the proposed reforms will ensure that any course of conduct designed to intimidate, molest or harass can be dealt with adequately by the criminal law. In addition, the bill contains the following further important protections. It clarifies part 15A of the Crimes Act to ensure that a court interim order can be made whether or not the defendant is present at court. It amends section 562I of the Crimes Act to provide that an order made in the presence of the defendant is, in effect, deemed to have been served on the defendant. This avoids any possible evasion of service which would otherwise make the order ineffective. It makes it clear that substituted service is available at the magistrate's discretion. It allows consent orders which constitute the majority of apprehended violence orders to be made without requiring the defendant to make admissions. It amends section 562C of the Crimes Act to allow young persons of 16 years and above to make complaints on their own behalf.

The bill amends part 15A of the Crimes Act to allow for the tender of affidavit evidence in urgent cases, rather than personal attendance by the victim in court where the victim is prevented from attending through hospitalisation or some other compelling reason. It amends section 562C of the Crimes Act to allow the court to hear complaints which are more than six months old. It overcomes any possible gap in the enforceability of apprehended violence orders by providing that the protection provided by an interim order continues until service of the confirmed order can be effected upon the defendant. This will ensure important continuity of protection to victims in such cases. It provides that an order has a life of six months should a magistrate fail to specify a set period. Without some stipulated period, an order would otherwise be invalid. The bill makes it clear that the period of six months is not to be taken as the benchmark for orders, but rather that orders should be made for as long as the court considers necessary to ensure the protection of the victim.

Finally, the bill reflects the Government's commitment to protecting the community by increasing the penalties for relevant offences related to domestic violence, namely, for breach of an apprehended violence order and for an offence under section 545B. These penalties will be increased to two years imprisonment and or a \$5,000 fine. The increases for these offences should act as a strong deterrent to potential domestic violence offenders. They also give greater recognition to the seriousness with which this Government views such breaches. Domestic violence victims will be further protected by some key amendments contained in the cognate Bail (Domestic Violence) Amendment Bill. This Government has recently undertaken the first major review of the Bail Act since its introduction in 1978.

Whilst overall the Act was found to be working well, significant shortcomings in its protection of victims were identified, which this Government is now addressing. In doing so, the Government has been conscious of the importance of balancing the need to protect the community and victims against the rights of accused persons. The key initiatives include the introduction of a rule that there will be no presumption either for or against bail for persons charged with murder, as well as for persons with a past history of violence who are now charged with a domestic violence offence, or who have breached an apprehended violence order in a violent manner. As I indicated previously, an alarming proportion of murders occur in a domestic relationship, often after escalation from earlier domestic violence incidents.

The Government, therefore, considers it necessary that the courts be required to more carefully examine whether bail should be granted in these circumstances by removing the present presumption in favour of bail for murder. Relevant studies also indicate that the best indicator of future violence is a past history of violence. The greatest risk situation for domestic violence is where a defendant with a history of past violence commits a later act of domestic violence. The Government considers the presumption in favour of bail should, similarly, be removed in such circumstances. These amendments will have an important deterrent effect on potential offenders. They also give recognition to the seriousness with which the community views domestic violence.

In addition, the bill includes the following further amendments to ensure the Bail Act's more effective operation and to protect victims and accused persons in other circumstances. Section 22A of the Bail Act

which regulates the making of further bail applications to the Supreme Court will now apply to the Crown and other parties as well as accused persons. The courts will be given a discretion to discharge a surety from liability following breach of a bail condition or undertaking, provided that the accused is before the court on such occasion.

Given its lack of use in practice, and its possible discrimination against financially or socially disadvantaged persons, the background and community ties questionnaire, commonly known as the Manhattan points system, will be removed from the Act and regulations. Upon committal for trial or sentence a magistrate will be empowered to continue bail upon the same terms, thereby removing the present uncertainty whether a fresh bail decision is required in such cases. This will reduce court sittings time and potential hardship to accused persons. The bill will expressly require the court, before revoking bail, to examine the substance of police allegations of a breach or imminent breach of bail. This will ensure fairness to accused persons in such cases.

Justices of the peace will be permitted to review minor bail conditions requiring accused persons to report to a particular police station at particular times. Presently an accused must apply to the court for  
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review of bail if he or she changes address, employment, or other new commitments arise which create difficulties with the existing conditions. By allowing these variations to be dealt with administratively, court resources will be devoted to more important matters. The court may, however, expressly exclude administrative review of these matters if it so determines.

The bill ensures that bail is not dispensed with where a court later omits or fails to make a bail determination. Bail will be deemed to be continued on the same conditions as previously ordered. This procedural reform will ensure important continuity of protection, particularly in domestic violence cases. The regulations will accord de facto spouses the same rights to make an application for bail on behalf of the accused as lawful spouses, parents or guardians.

Finally, the regulations will provide an important legislative backing to the Government's commitment that all victims of violent offences, or their families, be notified of the courts determination of bail in relation to the alleged offender. The Government is fully conscious of, and determined to respond to, the seriousness with which the community views domestic violence. The two bills now before the House represent a clear statement of the Government's continuing commitment to protecting all victims of domestic violence. These victims, so often women and young children, have a right to live in safety and free of fear within their own homes. I commend the bills.

**Debate adjourned on motion by Mr Knowles.**

## **BUSINESS OF THE HOUSE**

### **Bills: Suspension of Standing and Sessional Orders**

#### **Motion by Mr West agreed to:**

That so much of the standing and sessional orders be suspended as would preclude the following bills being brought in and passed through all stages in one day:

Endangered Fauna (Interim Protection) Amendment Bill  
Registered Clubs (Management) Amendment Bill

## **ENDANGERED AND OTHER THREATENED SPECIES CONSERVATION BILL**

## Legislation Committee

**Mr HARTCHER** (Gosford - Minister for the Environment) [8.53], by leave: I move:

(1) That the Endangered and Other Threatened Species Conservation Bill be referred to a legislation committee for consideration and report to the House on such amendments as it considers should be proposed to the Committee of the Whole on that bill;

(2) That such committee consist of:

(a) three members supporting the Government nominated by the Leader of the House in writing to the Clerk of the Legislative Assembly;

(b) two members supporting the Opposition nominated by the Leader of the Opposition in writing to the Clerk of the Legislative Assembly; and

(c) the honourable member for Manly.

(3) That the committee report by 1st March, 1994.

**Mr KNOWLES** (Moorebank) [8.54]: The Labor Party will support the motion moved by the Minister for the Environment but I should like to make some brief comments about it. It is important to note the fundamental differences between the Government and the Opposition on this bill, a third position of difference being that of the honourable member for Manly, who has given notice of his own legislation by way of a private member's bill. I will not go into those differences in detail, because the bill will be the subject of a legislation committee process, but I will deal with some concerns expressed today about the further investigation of this matter by a legislation committee.

It is fair to say that the Minister, in his second reading speech on this bill during the previous session of this Parliament, indicated that he proposed to lay the bill on the table for consideration during the recess to allow consultation to take place, including further consideration of the propositions contained in the bill. Members on this side of the House believe that the process failed, as concern is still expressed about the Government's bill by a wide variety of constituencies. The environmental movement regards the bill as fatally flawed and organisations such as the Forest Products Association have expressed concerns.

As a consequence of those concerns the Labor Party, in its work to determine its position on the bill, proposed a range of amendments, totalling 33, to bring the bill into a form that would have been acceptable to the Opposition. It would be fair to say that that process of amendment would be not only cumbersome but also subject to serious challenge by Government members and no doubt by members in another place. In my view that would probably render the process futile. The Opposition regards the concept of a legislation committee further exploring the various positions on this issue as the rational and sensible way of proceeding.

The alternative would have been to try to amend the bill in this place within the space of about a day and a half, and then to try to put it through the upper House, if that was likely - and I doubt that - in the hope of bringing a more workable piece of legislation into place. Failure of that process would have given rise to the triggering mechanisms, that is, the sunset clauses in the Endangered Fauna (Interim Protection) Act, and that potentially would have given rise to some problems with industries associated with this legislation. The Labor Party would not participate in that process. Extension of the Labor Party's endangered fauna interim protection legislation, to be proposed after this debate, will maintain some of the fundamental principles the Opposition supports while the proposal for a permanent endangered and threatened species legislative process is fully investigated.

I thank the Minister for the Environment for the co-operative approach he has taken in resolving this issue today. It was proposed by me that the

legislation committee be established, given the diverse range of views and the clear concerns expressed by a variety of groups associated with this bill. The Minister's response demonstrates, as he states in his correspondence, a desire to ensure that the State has an integrated strategy for the conservation of biological diversity. Though there may be differences as to how that will be achieved - and there may be fundamental differences that the legislation committee cannot resolve - it is important that the parties involved with the proposed legislation have a chance to air their views.

I cannot let matters pass without making the point that this has been, at times, a long and tortuous process resulting only recently in the Government's withdrawal of its natural resources package and a further attempt to get this legislation right. In my mind there is no doubt that the bill is still not correct. It has some serious problems in terms of definition and fails to define certain activities and processes and some of the fairly incongruous processes and concepts relative to national and international conventions. Having said that, the Opposition is pleased to support the legislation committee.

Concerns expressed to me this afternoon by the environmental movement about our process are without foundation. As I understand it, there is some concern that the proposal to extend the Endangered Fauna (Interim Protection) Act as proposed by the Minister will bring about a destruction of the forests and there are others of those flamboyant claims that we get from time to time. Though the Opposition certainly would not support an extension if it felt that was the case, it is fair to say and place on record that the Opposition is satisfied that the processes that are incorporated in the Endangered Fauna (Interim Protection) Act should be sufficient to give the Director of National Parks and Wildlife sufficient power to act on any breaches of the provisions of the Act. The Opposition will continue to require, as it is mandatory under the legislation, quarterly reporting of the processes and the implementation of the Act. I think that should satisfy those who are concerned about the issues. I support the Minister's motion.

**Motion agreed to.**

## **ENDANGERED FAUNA (INTERIM PROTECTION) AMENDMENT BILL**

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

### **Second Reading**

**Mr HARTCHER** (Gosford - Minister for the Environment) [9.2]: I move:

That this bill be now read a second time.

The Endangered Fauna (Interim Protection) Act 1991 made a number of changes, some of which were expressed to expire on 1st December, 1992, or on any earlier date on which replacement endangered species legislation was enacted. In late 1992 the Government amended this legislation to ensure the further extension of these provisions until 1st October, 1993, while a comprehensive package of legislation for the protection of endangered fauna was formulated. As honourable members will be aware, the Government introduced its Endangered and Other Threatened Species Conservation Bill into the Parliament in May. However, to ensure viable and effective legislation, which all members of the community can support and which can achieve the commonly accepted objectives of ecologically sustainable development, the Government has agreed to the establishment of a legislation committee to examine the range of legislative proposals which have been put forward since May.

In the meantime, action must be taken to ensure the provisions of the Endangered Fauna (Interim Protection) Act do not expire on 1st October, 1993. The purpose of this bill is to extend the operation of those relevant provisions until 1st October, 1995. The specific provisions on which an extension is required are as follows: First, the inclusion of a defence to the offence in section 98 of the National Parks and Wildlife Act 1974 of taking or killing protected fauna, other than endangered fauna. This defence will enable a person to

carry out development in accordance with a development consent under the Environmental Planning and Assessment Act 1979, or an activity for which part 5 of that Act has been complied with.

The defence is necessary because the Endangered Fauna (Interim Protection) Act extended the meaning of take or kill fauna to include any significant modification of the habitat of that fauna which is likely to affect its essential behaviour patterns. The Endangered Fauna (Interim Protection) Act 1992 extended the date on which the defence expired until 1st October, 1993. This bill will further extend that date until 1st October, 1995. An amendment to the Environmental Planning and Assessment Act 1979 included the additional requirement for a fauna impact statement for development consent and for any environmental impact statement under part 5 of that Act. The Endangered Fauna (Interim Protection) Act 1991 made that requirement for all protected fauna, but the Timber Industry (Interim Protection) Act 1992 limited its application to endangered fauna. The Endangered Fauna (Interim Protection) Act 1992 extended until 1st October, 1993, the date when the requirement expired. The bill will further extend that date until 1st October, 1995.

The other changes made by the Endangered Fauna (Interim Protection) Act 1991 are not affected by the 1992 amending Act or this bill. Those changes include the extension of the definition of take or kill, the establishment of a scientific committee that recommends the listing of endangered fauna, the requirement for a fauna impact statement for a general licence to take or kill endangered fauna, and the power to issue stopwork orders to prevent development that is likely to significantly affect the environment of endangered or other protected fauna. The Endangered Fauna (Interim Protection) Act 1991 imposed restrictions on the issuing of general licences by the Director of National Parks and Wildlife after the publication of the new schedule of endangered fauna.

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The Act commenced on 17th December, 1991, but the new schedule was not published until 28th February, 1992. After the commencement of the Act a number of general licences were issued to the Forestry Commission and others to take or kill endangered fauna in connection with existing forestry or other operations. The Endangered Fauna Interim Protection (Amendment) Act 1992 extended the duration of those licences and certain other licences to which that Act applies until 1st October, 1993. The bill will further extend their duration until 1st October, 1995. The bill makes it clear that licences remain subject to the provisions of the National Parks and Wildlife Act 1974 relating to the cancellation or variation of a licence.

The director will retain his powers under the National Parks and Wildlife Act to take action and to issue stopwork orders or to take action to protect endangered or protected fauna in the circumstances laid down in that Act by the variation or suspension of a licence. The Government is committed to ensuring that development activities can continue throughout the State and that appropriate protection is given to endangered fauna while the Parliament has the opportunity to fully consider the legislative options.

I wish to thank the honourable member for Moorebank and members of the Opposition and all members of the House for their assistance in dealing with this matter. The complexities of endangered fauna are not unique to New South Wales. The United States of America went through a long process in trying to establish satisfactory endangered fauna laws. Honourable members would be aware of the famous snail data which held up the great dam that was going to be built on the eastern seaboard of the United States and which led, eventually, to what is colloquially referred to in the United States as the God committee, that committee of scientists which is allowed to decide whether a species lives or dies.

The Parliament has not yet formulated the final proposals it wants as permanent endangered species legislation. All honourable members would agree that we need such legislation; it is essential to the development of a biodiversity strategy to which New South Wales and Australia, since the Rio convention, are fully committed. It is clear that if we are going to have satisfactory legislation, it needs to be legislation that has the support of the majority of the community - that is, the environmental movement, the business community, the development community, the mining and forestry industries, and as much as possible representation contained in the House. Until that legislation can be successfully brought about it is necessary to extend the

Endangered Fauna (Interim Protection) Act 1991, which is what this bill proposes. The Act has not changed in any way. All that has happened is a change to the dates that were in the 1992 amendment to 1st October at a later date. I commend the bill.

**Mr KNOWLES** (Moorebank) [9.8]: In leading for the Opposition I register at the outset its support for the bill. I note the Minister's undertaking that the powers of the Director of National Parks and Wildlife will not be fettered in any way by the extension of the Endangered Fauna (Interim Protection) Act to October 1995. I raise that now because it relates to concerns expressed by the environment movement about the proposed extension. There is some concern that the extension of what are effectively 120-day licences over a three-year time period may give unfettered access to resources, particularly timber resources. It is felt that by extending the provisions in the bill the principles of licensing may in some way be subjugated. I point out to those people who are interested in this debate and, in particular, to people with those types of concerns, that they need to look at the bill and they need to relate it to the original Act, which confirms that the general licence to which the section applies relates to section 4(2) of the first amending Act.

This section makes it clear that the powers of the director will remain in force. He will have the opportunity to continue licensing, to issue stop work orders and to make other orders as he sees fit. It is fair at this stage to refer to the extensions in the former Labor Government's Act. This is the second time the Government has chosen to extend earlier Labor Government legislation in place of its own permanent legislation. At the time our original legislation was introduced all sorts of claims were made about potential enormous job losses, particularly in the timber industry, and the complexity of the task. The Minister has pointed out that it will be a complex task to administer this sort of legislation. Worldwide, the concept of the protection of endangered species, flora or fauna, is difficult, given the range of competing interests.

The legislation requires the Minister to table quarterly reports to the Parliament - a report card, if you like - on the operations of the Endangered Fauna (Interim Protection) Amendment Act. As the Minister said, the Act requires a range of issues to be assessed. The objects of the Act include: To provide an urgent scientific evaluation of the conservation status of fauna in New South Wales; to divide species of fauna into endangered, protected and unprotected; to ensure endangered species of fauna are only harmed with the informed consent of the director; to set criteria and performance standards for giving or withholding consent; to provide for appeal against licence decisions of merits; to provide cost recovery for licences; and to ensure existing use rights.

The Minister pointed out to the House earlier that none of those objects has been changed by the further amending of the bill. Under schedule 12 of the National Parks and Wildlife Act the listing of endangered fauna is required. That is consistent with amendments that we consider important to the Government's bill on threatened species. It is consistent also with the bill of the honourable member for Manly, of which he has given notice. The Act requires the establishment of fauna impact statements. We propose to continue those statements. The Act requires also the licensing of a variety of activities. It is worth noting in the Government's quarterly

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report that the period within which the Act has been in operation - at the time members were told that thousands of licences and fauna impact statements would be created - the National Parks and Wildlife Service has received and granted 62 temporary licence applications to take or kill endangered fauna. Most of those temporary licences were extended, under the provisions of amendments to the Endangered Fauna (Interim Protection) Amendment Act, to 1st October, 1993. More than 266 variations to those licences and authorities have been processed and the Forestry Commission has requested variations for approximately 350 additional compartments.

The National Parks and Wildlife Service is capable of handling issues associated with external monitoring of the Forestry Commission. I know that this principle is foreign to some Government members, but I point out that the great majority of Government Ministers, both past and present, the former Deputy Premier, the current Minister for Planning, the Minister for the Environment and a range of Government agencies accept the principle of external monitoring, particularly of corporatised bodies or bodies such as the Forestry Commission that are becoming corporatised. Why should the Forestry Commission not be subject to some sort of external

regulation and licensing such as the proposals in the Endangered Fauna (Interim Protection) Amendment Act? Those people who would like to closet the Forestry Commission or protect it in some way would seek to maintain its historic position of poacher-gamekeeper - which is the generic term that seems to be used these days - but they should wake up to the fact that governments worldwide are moving to separate the regulator and the proponent.

The Government introduced in another place legislation amending part 5 of the Environmental Planning and Assessment Act, which will require the formal separation of the consent authority and the proponent of an activity. That legislation will come before this House within the next few sitting weeks. I know the Government will support its own bill. The Forestry Commission should understand that the concept of external licensing and the concept of external scrutiny to provide public confidence in the process are here to stay. If it is unhappy with the concept of section 120 licences and the National Parks and Wildlife Service processes it should propose an alternative mechanism rather than simply say, "We do not want any form of external licensing". The Environmental Planning and Assessment Act provides an opportunity for the Director of National Parks and Wildlife to establish stopwork orders. In the entire time that the Act has been in place only two stopwork orders have been applied. Apparently, one was for a caravan park at Belmont Lagoon at Lake Macquarie - and there was not much of an outcry about that - and the other was the celebrated compartment No. 1402 in the Eden forest management area.

I know that several members have visited that area to have a look at it. Surprise, surprise! - a couple of months ago that compartment was logged after a fairly detailed assessment by both the National Parks and Wildlife Service and the Forestry Commission, without disruption to timber supply, without a loss of jobs and without the hue and cry that went on prior to the application for stopwork orders. David Ridley, district forester of the Eden management area, made it clear when the legislation committee was in the area that the Forestry Commission was more than comfortable with the concept of external licensing and stopwork orders.

I can only assume that the concerns being expressed by people such as the honourable member for Monaro are simply representative of a minority rump of the Government as opposed to the broader view of the community, the Government and the Opposition. External licensing and the opportunity for intervention by someone like the Director of National Parks and Wildlife is a legitimate, fair and reasonable process, given that that process is clearly articulated and understood by everyone. The fact that only 62 temporary licences and two stopwork orders have been issued since the original Act was implemented shows not only the workability of the legislation but also the administration of the National Parks and Wildlife Service and its ability to co-operate and ensure that fauna is protected. It shows also that issues such as resource availability can be achieved. I support the bill.

**Motion agreed to.**

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

## **REGISTERED CLUBS (MANAGEMENT) AMENDMENT BILL**

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

### **Second Reading**

**Mrs COHEN** (Badgerys Creek - Chief Secretary, and Minister for Administrative Services) [9.19]: I move:

That this bill be now read a second time.

The purpose of this bill is to amend the Registered Clubs Act 1976 to deal with some specific matters of public interest. In broad terms the object of the bill is to amend the Act so as to remove the existing power of the

Licensing Court to disqualify a club from holding a certificate of registration for a period; to empower the court to declare that a specified person is ineligible to be the secretary or a member of the governing body of a club; to add a ground of complaint that a member of the governing body of a club is not a fit and proper person to hold the position; to increase the maximum monetary penalty in complaint proceedings from 500 to 2,500 penalty units; and to enact transitional provisions to require that existing registration disqualifications be remitted to the Licensing Court to decide on the basis of the new provisions, except the increase in monetary penalty.

It may be of some assistance to members if I give some background to these amendments. The recent and somewhat unfortunate history of the

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Seagulls Rugby League Football Club at Tweed Heads has been ventilated in the media both in Sydney and on the far North Coast. As a consequence of its own actions some years ago, this club is facing the prospect of closing its doors for two weeks. This flows from a determination of the Licensing Court of New South Wales. This case had its origins in the mid 1980s and culminated in a complaint in 1988 by the Superintendent of Licences to the Licensing Court of New South Wales. This led to a decision of a licensing magistrate in 1989 to disqualify the club from holding a certificate of registration for a period of two months.

I will not go into the details of those complaints at this time because that is all past history and not all of the initial findings of the magistrate survived the subsequent court processes. What is significant here is the amount of time and cost absorbed in the courts in coming to grips with this case. It may assist if I quote from the decision of the Court of Appeal in this matter on 22nd December, 1992. The Hon. Justice Kirby said:

I pause to reflect upon the protracted nature of this litigation, its costs and its delays. What began as a fairly simple concern of the superintendent about the continuing involvement of Mr Hayes in the activities of the club and the belief that the club's Bus Pak promotion contravened the Act, blew out into four substantial hearings, seven large appeal books and very substantial costs, public and private. One is bound to question whether there is not a more effective way than this of dealing with the legitimate public concerns about the management of a large club in country New South Wales.

This last comment of the judge was to be a telling and guiding comment. The 1992 hearing was not to be the end of the matter. The Court of Appeal returned the case to the Licensing Court to decide according to the law, having determined that there had been an error of law to the disadvantage of the appellant club. The Licensing Court in July 1993 redetermined the matter and disqualified the club's certificate of registration for a lesser period than before - on this last occasion being a period of two weeks. The club has once more appealed to the Supreme Court, claiming that the Licensing Court has erred in law again. The matter is scheduled for hearing before the Supreme Court on 20th September, 1993.

I digress here to indicate that the current legal opinion available to me suggests that there is a real prospect that the determination of the full bench in the Seagulls matter will be set aside by the Supreme Court. That, of course, will be decided by that court. So now the club is facing the prospect of at least two more court appearances, one before the Supreme Court and, possibly, back before the Licensing Court. I have outlined the history of this case as an example of the problems which the amendments now before the Parliament seek to overcome. It is abundantly clear to me that the provision of the Act which allows the Licensing Court to order the temporary closure of a club is a crude weapon of control. It has the capacity to penalise the employees of a club who may be stood down during the period of the closure of the club - employees who may have no inkling of or involvement in the problems which led to the closure and who may suffer through a loss of wages. But it is not just the employees who are disadvantaged. With the closure of a club comes the inconvenience to the members of the club and their guests.

The members of this Parliament will be well aware of the services and facilities provided by the clubs in their own electorates. They can no doubt imagine the disruption which the closure of any one of these clubs would cause. Should there be any doubt they might speak to the honourable member for Murwillumbah, whose electorate is that in which the Seagulls club is located, a member who has worked unceasingly with me in recent months to unravel the web entangling the club. The blunt weapon of closure of a club invites any club threatened in this way to engage in what may well be a battle for its very survival - a battle in which it must

expend its energy and its resources to stave off the closure. Such clubs will, as did the Seagulls, use every legitimate avenue at their disposal to protect their club, their members and their community services.

I have outlined the devastating effect that closure of a club can have on the employees and members of the club and their guests. Despite this, those who may have been involved in the conduct which led to the closure may escape unscathed. The amendments which I now put forward will overcome these deficiencies and injustices. First, the power of disqualification of a club's certificate of registration for a period will be removed from the Act. No more will this be available as a sanction to the court. I would make the point that this power has been rarely used. There are only three cases of which I am aware where a club has been forced by a court to close for a period. Such is the impact of this penalty that even the courts seem loath to use it.

To protect the public interest there must, of course, be penalties available which are capable of sensible application. To introduce meaningful substitutes to closing a club, I propose that there be further changes to the law. First, the existing monetary penalty which may be imposed is \$50,000. This will be increased to \$250,000. It will be expressed as a maximum monetary penalty so as to give the Licensing Court a discretion to take into account the magnitude of the wrong leading to the complaint and the significance of the penalty in relation to the size of a club and its resources.

Second, a new provision will be inserted into section 17 of the Act which will allow the court, when determining a complaint, to declare that a specified person is ineligible to be the secretary or a member of the governing body of a registered club. This will be accompanied by a provision that a ground of complaint may include that a member of the governing body is not a fit and proper person. There is already a ground of complaint that the secretary is not a fit and proper person. These new provisions relating to a secretary and member of the governing body will mean that if it becomes apparent to the court, during complaint proceedings against the club,

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that it was the management of the club, or a person materially involved in the management, who were directly responsible for the wrongdoing, the court will be able to deal with those persons. They will not be able to escape unscathed.

A procedural fairness provision is to be inserted into the Act. The court will be obliged to give people an opportunity to have their cases heard and to show cause why the court should not declare them ineligible for further office. There is already a provision in section 35 of the Act that allows for a person who is a secretary or a director of a club to be called upon to show cause why they should not be removed from their position. Incorporating a similar provision into the complaint proceedings will mean that all matters of concern can be dealt with at the same time rather than requiring separate, and costly, proceedings.

The power of the court to appoint an administrator to a club was introduced by this Government in 1990, and it will remain an option. I am advised that this option was available to the Licensing Court in the Seagulls matter, although it was not used. The power for the Licensing Court to cancel a club's certificate of registration will remain. This must be available as a penalty of last resort. However, I see this power being used primarily where it is shown before the court that a club no longer meets a genuine and substantial need, or where undue competition and economic waste will result if the club continues to operate. These are two existing grounds of complaint. Clearly, if it is found that a club has persistently and flagrantly committed major breaches of the law, that there has been no regard paid to the proper conduct of the club in the interests of its members, or that criminal activity pervades the club, the cancellation of a club's certificate may be the only proper course available to the court.

The bill also includes transitional provisions that will require any existing registration disqualification to be remitted to the Licensing Court for redetermination on the basis of the new provisions I have outlined. An important exception to this will be that the increase in monetary penalty will not be available in current cases. These transitional arrangements do not offend the rule of law which is already embodied in section 55 of the Interpretations Act 1987.

Simply expressed, that rule says that if a statutory penalty is increased, the increased penalty applies only to offences committed after the commencement of the statute. Conversely, the rule says that a reduction in a statutory penalty extends to offences committed before the statute commences, except those where a penalty has already been imposed. The amendments in this bill specifically apply that rule to the particular circumstances of the penalty provisions for section 17 complaints under the Registered Clubs Act. I am satisfied that with all the amendments proposed in this bill the court will have available to it a range of sanctions which it can impose to fit the particular circumstances of a complaint against a club where it may determine that action is appropriate in the public interest. I commend the bill.

**Mr FACE** (Charlestown) [9.31]: I lead for the Opposition in debate on this bill, which we support. The Registered Clubs Act of 1976 empowers the Licensing Court to cancel or suspend the registration of a registered club against which a complaint has been made under the Act. The Chief Secretary is aware that I had intended to introduce a private member's bill at the beginning of this session because of the continuing uncertainty hanging over the Seagulls Rugby League Football Club and also as a consequence of many of the matters that have been highlighted by the Minister that emanated from the 1992 judgment and its effect on clubs in New South Wales. The reasons for my not proceeding with that bill were twofold. First, it was difficult to draft legislation that did not allow ministerial discretion to overrule a decision of the court. That would have fundamentally breached the Westminster system of parliamentary government in which the separation of powers is an essential prerequisite. However, it was considered that the existing legislation was too restrictive and did not enable the courts to consider cases involving registered clubs.

The second reason for not proceeding with the bill was that at the end of last week the Minister and I conferred about the impending problems arising from the Act. To the credit of the Minister and her advisers the proposed legislation has been introduced before the Parliament. I do not want anyone to have any misconception, to rewrite history or to suffer from selective amnesia and think that the bill has been introduced all of a sudden because someone had a dream of how to overcome the deficiencies in the Act. This has been a co-operative effort. The Opposition is facilitating the passage of the legislation for the betterment of the Seagulls club and the club movement. I am not here to score political points. I have tried, as have the Minister and her advisers, to seek an answer to the difficulty that has been encountered.

Registered clubs are basically co-operatives where members with a common interest meet. The existing legislation has been too restrictive for the court to be able to make decisions that have an impact on club members following wrongdoing by one or a few who occupy positions of trust on behalf of the members. The court has the power to suspend the licence of a club for a limited time, but that punishes the members rather than the wrongdoer. A club confronted with that type of situation may, before the suspension takes effect, rectify the result of the wrongdoing. However, the court has lacked the flexibility to review its decision. Any suspension of the licence of a club acts to the detriment of all the members, even though those who caused the circumstances resulting in the suspension have been removed from the club and all necessary action has been taken by the club to operate soundly within the law. That has been the case for a long time; this matter has been before the courts since 1988. If those who caused the trouble at the Seagulls club are still members of the club and have not been dealt with, someone has not done his job.

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The legislation should be amended to allow the court to review its decision in the light of the circumstances that have occurred since it was brought down. I consider that amendment to be essential in order to be fair and equitable to innocent members. The implementation of the decision of the court can only rob club members of their benefits, and the financial consequences of any action could result in a club having to close its doors permanently. As I said during the deliberations with the Minister, the decision of the court could be applied to many clubs in New South Wales. Suspension of a licence for two months, or indeed only a fortnight, could create a situation whereby a large club might not be able to trade again. That would not be the intention of any government. Nevertheless, the existing legislation is restrictive; ministerial discretion was inappropriate; the court was restricted by the legislation; suspension of a licence punished the members and not the wrongdoer; the court did not have flexibility - it will now have the flexibility to impose increased penalties -

and the court was unable to review its original decision. The legislation that I had proposed to introduce would have enabled the clubs to take remedial action. I supplied a draft of that bill to the Minister in a spirit of co-operation. The proposed legislation before the House will achieve what I had sought to do, but it goes further and it will benefit the club movement.

The objects of the bill are to amend the Registered Clubs Act so as to remove the existing powers of the Licensing Court to disqualify a certificate of registration of a club for a period of time; introduce a new provision that will enable the court to declare that a specified person is ineligible to be the secretary or a member of a governing body of a registered club; add a ground of complaint that a member of the governing body of a club is not a fit and proper person; increase from 500 to 2,500 penalty units the maximum penalty that the court can impose when determining a complaint; require that any existing registration disqualifications be remitted to the Licensing Court for redetermination on the basis of the new provisions, except the increase in monetary penalty; and require pending matters to be determined on the same basis.

The Registered Clubs Act contains provisions relating to complaints that may be made to the Licensing Court of New South Wales about the conduct of registered clubs and how those complaints may be determined. Section 17 of the Act specifies 15 grounds for complaint. Generally complaint proceedings are initiated when there have been significant and or repeated breaches of the provisions of the Act; or when a club has not fulfilled a genuine and substantial need. Other breaches relate to the supply and sale of liquor on premises; rules of the club being habitually broken; and when a club is used for unlawful purposes. Unfortunately the Seagulls club premises were used for unlawful purposes. That was an undesirable situation.

In the main, complaints may be taken only by the Director of Liquor and Gaming and the Commissioner of Police or his delegate. The Licensing Court, after finding a complaint substantiated, may cancel the certificate of registration, disqualify the club from holding a certificate of registration for a period that the court thinks fit, order a club to pay a penalty not exceeding 500 penalty units, subject the certificate of registration of the club to a specified condition, or appoint a person to administer the affairs of the club, which the Minister said quite rightly the 1990 legislation did not permit. As I said when the bill was being discussed, had that provision existed in 1988, it may have helped the Seagulls club. However, until 1990 that provision was not available to the court. Of course, the court may dismiss the complaint.

In 1990 the Government increased the monetary penalty to a maximum of 500 penalty units and gave power to the court to appoint an administrator. In my view that would have been helpful to the club. I wholeheartedly support the increase in the maximum penalty to \$250,000 or 2,500 points. If my memory serves me correctly, at the time the 1990 bill was debated, I was concerned about the need for increasing the maximum penalty. At that time I said that \$50,000 would not be regarded as a large sum and therefore would not be a deterrent to some large clubs. However, it would be regarded as a fortune to a small club. I am satisfied that in some cases the proposed maximum penalty will fit the crime. At the same time, the court will be left with the power to determine the appropriate penalty in particular circumstances. This provision was included in the 1990 legislation to give more flexibility to courts by providing alternatives to severe penalties such as the cancellation or disqualification of a certificate of registration, which would effectively close down the club.

In her second reading speech the Minister said only three known incidents existed where the court has imposed a period of disqualification. In 1976 the Seagulls Rugby League Football Club was disqualified for three months. In 1991 the Riverina Australia Football Club at Wagga Wagga was disqualified for one week. And in 1993 - the July judgment - the Licensing Court disqualified the Seagulls Rugby League Football Club for two weeks rather than two months. The case is the subject of an appeal to the Supreme Court and if the appeal is successful, the decision will be set aside. Once again, the club is expending a considerable amount on court costs.

The Minister and I would agree that the Seagulls club has already suffered a severe penalty by reason of the court costs it has incurred to date. Because of the protracted nature of the proceedings law firms have been the recipients of that money. Existing law is unable to deal effectively and decisively with complaints against a

club. Though the provision to enable the disqualification of a club's certificate is available, it is seldom used. The existing provision tends to punish the employees, members and visitors rather than the persons responsible. The severity of disqualification can attract extensive litigation and in some cases horrendous costs.

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The power of the Licensing Court to disqualify the certificate of a club for a period of time will be removed by this measure. It is no longer seen as an appropriate form of discipline given the serious effect it can have on employees and members alike. Of course, the other provision relating to perpetrators is a sensible measure. The perpetrators of the wrongdoing at the Seagulls club, whether at management or director level, to some extent went unscathed. This provision will allow for that problem to be addressed.

The new power for the court to declare a person ineligible to become the secretary or a member of the governing body is a remedy for the court's inability to deal with those who caused the problem. The amendment includes a procedural fairness provision which gives a person an opportunity to show cause why the declaration should not be made. That will provide justice. The proposed new penalty provision of 2,500 penalty units is to be expressed as a maximum penalty, giving the court discretion to make the monetary penalty fit the seriousness of the offence - bearing in mind that clubs range in size, levels of income and resources. The increased penalty of up to 2,500 penalty units will only apply to proceedings commenced after these amendments take effect. This prevents the increased penalty being imposed retrospectively.

This afternoon I received a call from a person who was confused by the issue of retrospectivity in regard to the penalty of \$1,000. The honourable member for Murwillumbah is aware of this matter. Litigation involving the Seagulls club commenced in 1988 and, as such, would have been dealt with by way of a \$1,000 fine. This is not retrospective legislation, though the suggestion has been made - for reasons known only to those who made it - that there is something sinister in the legislation. That offence would have attracted a maximum fine of \$1,000 because the case was commenced prior to the 1990 amendment. To suggest that there has been preferential treatment is far wide of the mark. If the case had been commenced following the 1990 amendment, the maximum penalty would have been, as it is now, \$50,000. This legislation is prospective rather than retrospective in the sense that those clubs coming before the courts now will be dealt with under the new unit rate, attracting a maximum fine of \$250,000.

The amendments will allow the Seagulls case to be remitted from the Supreme Court to the Licensing Court for redetermination. Neither the disqualification provision nor the increased penalty will be available when the matter is redetermined. It will be open to the court in the Seagulls case to cancel the certificate of registration, appoint an administrator - which has always been an available option - fine the club \$1,000, subject the certificate of registration of the club to specified conditions, declare specified persons ineligible to be the secretary or members of the governing body, or do nothing. The cancellation provisions of the penalties will remain an action of last resort. That provision is the ultimate sanction and should be retained. In certain circumstances, if a club has erred badly, it should be closed and disqualified from holding a licence indefinitely. As I said earlier, the proposed legislation will address quite a few problems that I have identified. An advantage of the legislation is that in future determinations of matters large sums of money will not go to law firms. The Opposition has co-operated with the Government in an endeavour to assist the passage of the bill. I support the bill.

**Mr BECK** (Murwillumbah) [9.50]: It is my pleasure to support the Registered Clubs (Management) Amendment Bill. At the outset I should like to commend the honourable member for Charlestown for his bipartisan approach to the legislation. After next Monday the Seagulls club will appreciate the improved situation. On 8th March, 1987, an annual meeting was held at the Seagulls Rugby League Football Club. On that particular day the then Premier, the Hon. Barrie Unsworth, and I were sitting on the stage at Seagulls.

*[Interruption]*

The honourable member for Londonderry reminds me that Barrie Unsworth was a constituent of mine.

He was residing at Yacht Harbour Towers. I actually sent him a "Welcome to the electorate" letter. On that day in 1987 - I am sure the honourable member for Charlestown remembers - an entire board of directors was removed and a new board duly elected by the large gathering of members, which filled the Stardust Room and the restaurant area of the club. The debate was televised on closed circuit television throughout the club. The events that followed have been clearly put by the Minister and the honourable member for Charlestown. Those events have been like a shackle around Seagulls for many years. I am not saying that those elected to the new board on that day have or have not done the right thing in the period since. It may be that a different approach could have been taken at that time.

Seagulls leagues club is one of the largest clubs in New South Wales. It is sad that over this period of time it has spent in excess of \$1 million on legal fees. That is a lot of money. Of course, the three judgments that have been handed down - and have been appealed against - have brought fear and concern to employees, members and patrons of the club. The club was ordered initially to close for a period of two months. That decision was appealed against and the period was reduced to one month. Just a few weeks ago that period was further reduced to two weeks. On different occasions I have had meetings with club officials, the Minister, the Minister's staff, the secretary-manager of the club and the chairman of the board.

The legislation that the Opposition was proposing to introduce contained flaws. This bill will not only look after the interests of the Seagulls Rugby League Football Club, it will also look after the interests of the other 1,500 registered clubs in New South Wales. Both sides of the Parliament support the penalties that will now be available to the Licensing Court - a

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minimum of \$50,000 to a maximum of \$250,000. It is important that we get this legislation right so that other clubs do not experience five or six years of trauma and concern. The efforts of the Minister will safeguard the club industry.

Earlier I referred to the \$1 million that was paid in legal costs. The Seagulls club and other clubs in my electorate have contributed large sums to New South Wales coffers over the years by way of poker machine, liquor, and licensing taxes. The introduction of poker machines into Queensland took away much of that revenue. But I am sure that that \$1 million could have been put to better use by Seagulls. When the matter returns to the Supreme Court on Monday I hope Seagulls will be permitted to get on with its job and allowed to prosper. I congratulate the Minister for introducing this legislation and thank the Opposition for its support.

**Mrs COHEN** (Badgerys Creek - Chief Secretary, and Minister for Administrative Services) [9.57], in reply: I thank the shadow minister for his support and co-operation in the drafting of this legislation. I thank also the honourable member for Murwillumbah for his strong representations and suggestions. The difficulty in this case was finding a sensible, workable solution that would not present further problems and would not usurp the powers of the court. The difficulty was further exacerbated by the fact that a case was before the courts.

Solutions have not been easy to find. We had to be sure that the solution would not create further complications and that the intent of the law was preserved. The provisions of this bill will achieve the desired result. The provisions will be beneficial for the whole club industry and will provide a mechanism whereby employees and members of the club are not ever again punished for circumstances over which they have no control. I thank all members for their contributions. I commend the bill to the House.

**Motion agreed to.**

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

## **APPROPRIATION BILL**

## **PARLIAMENTARY APPROPRIATION BILL**

**BUSINESS FRANCHISE LICENCES (PETROLEUM PRODUCTS) AMENDMENT BILL**

**MOTOR VEHICLES TAXATION (AMENDMENT) BILL**

**ROAD IMPROVEMENT (SPECIAL FUNDING) AMENDMENT BILL**

**Second Reading**

**Debate resumed from 14th September.**

**Mr GIBSON** (Londonderry) [10.0]: I am pleased to speak to the Budget that was presented to this House last week by the Treasurer, the Hon. Peter Collins. I notice that the Government portrays this as a family budget, but the people of western Sydney will not see it as a family budget. The Budget Papers are only that - papers with figures written on them. The people of western Sydney will judge this Budget by comparing it with last year's Budget. Though last year the Government made the same claims about expenditure on capital works in all portfolios, the reality was a serious underspending of the budgetary allowance for that year.

I believe this to be an election Budget. It gives the Government the opportunity to call an early election, if it believes it can win, at any time in the next two, three or four months. I believe that to be the main purpose of this style of budget. Last year's capital works program was underspent by \$327 million. If the budget was underspent, it means that jobs were cut. It is cruel to tell the public that jobs will be created but then to underspend the allocation. The underspending was not an insignificant amount; \$327 million is a significant amount. Last year the Government told us that 18,000 new jobs would be created. But what happened? In the year to August the employment rate in New South Wales fell by 27,000 jobs. I know that the Government uses a method of analysing figures that is different from the one used by the Opposition, but one could say that within the past year jobs in New South Wales have fallen by 45,000.

That leads me to something I have been wanting to say in this House for a long time. What do we really want as members of Parliament in New South Wales? Should all politicians be no frills accountants? That is exactly what we are becoming. For a long time there has been criticism that there are too many legal people in Parliament. That is good and well-accepted criticism. Even the legal people in Parliament have become no frills accountants. I level the criticism not only at New South Wales but also at the Federal sphere. Should balancing the Budget be the main priority for politicians? That is a debate I would like to have in this Chamber one day. It may appear to many people that the main purpose of a member of Parliament is to put to one side compassion towards those we are supposed to represent in an effort to make sure the Budget balances. Should the balance-sheets speak all languages and be the panacea of all ills?

Most governments have moved in the same direction. Instead of helping people, they are balancing budgets. But should everything be done in order to reduce the deficit? Should essential services be slashed in order to reduce the deficit? Should reductions take place across the board and across all portfolios, when the main purpose for those cuts is not to provide services but to provide balance in the Budget? Is the main reason for the existence of politicians to cause hardship? It is easy for us as politicians to say that in order to balance the Budget we must reduce costs and, in turn, create further unemployment. Imagine a person who is suddenly out of work, after 10, 20 or 30 years of work. The trauma that families suffer from unemployment cannot be measured.

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The prime concern of members of Parliament should be compassion towards their constituents. Politicians should be oriented towards people. It is unfortunate that nowadays parliaments are not oriented towards people. Until there is a change in the orientation of politicians and parliaments the public perception of politicians will continue to be poor. The Opposition's summation of the Budget is that another 10,000 jobs will be cut this year. It seems to be an application of the old Menzies adage that, if you want to fix inflation or to balance the budget, you cut jobs. There must be more to running a State than just cutting jobs.

I remind the House that the Budget is portrayed as a family budget. Can honourable members imagine what families in western Sydney must think when they see announcements, as they did last week, about funding cuts of \$1.3 million for free spectacle programs for pensioners, but at the same time they see the Government allocate another \$3.25 million to the promoter of the Eastern Creek Raceway. The deal the Government did with Eastern Creek is the worst deal perpetrated anywhere since the Indians sold Manhattan. The Labor Party is opposed to the Fahey Government's waste and mismanagement that is evident through this Budget. The Opposition opposes the policy of forced redundancies. It opposes the programs for privatisation of hospitals, rail, cleaning and water services. Recently the Government took on the Government cleaners, the most poorly paid workers in the community. The cleaners were taken on by this giant of a Government, but the Government will lose. David will beat Goliath again and the Government cleaners will win the day, as they should. The Labor Party opposes the fire sale of the State Bank.

Much of the Government's thrust has been towards winning the bid for the year 2000 Olympic Games. Let me go on record as saying that I do not believe Sydney will win that bid. I hope I am wrong: I would love Sydney to win it. However, I believe we blew it a long time ago. Sydney did not blow it because Beijing has a huge market for large companies to monopolise. It did not blow it because Manchester's bid may have been more professional than Sydney's. It did not blow it because Berlin kept its bid under wraps until the last few weeks. New South Wales blew it because it sold out on tourism about three or four years ago. The wheels have fallen off the tourism cart and the Government must bear the brunt of that. New South Wales has the most magnificent product to sell.

**Mr Photios:** There is an extra \$8 million in the Budget for tourism.

**Mr GIBSON:** I will come to that. New South Wales has a magnificent product but it has not been sold. The people elected to sell it could not sell fish to Eskimos. The Minister just referred to extra money in the Budget for tourism. The Premier's announcement that spending on the tourism market would increase by 46.4 per cent is welcome news, but what an admission of guilt. What an admission of what has gone wrong over the past three or four years. The increased funding will increase the Budget for the New South Wales Tourism Commission from \$19 million annually to more than \$27 million. That is something that should have happened a long time ago. Of that total figure more than \$13 million will be channelled directly into advertising and promotion. That is a good and timely move.

The growth rate of Australians holidaying in New South Wales has decreased rapidly in recent years. If we cannot get Australians to spend their holidays in New South Wales, how in hell will we get international visitors to come to New South Wales for the Olympic Games? The argument is the same: mismanagement has lost New South Wales the tourism market. The dynamic and aggressive marketing campaign undertaken by Queensland has also had an effect. Though the share of local tourists visiting New South Wales has not decreased markedly, the rate of growth has ground to a halt. The State Government has known that for some time, yet it has done nothing about it. New South Wales still claims nearly one-third of all domestic tourism, but Queensland is gaining fast and will take over if we do not watch ourselves.

Some celebrated failures, such as the NSWOW! campaign, have also diminished the effectiveness of tourism in this State. That has to be the worst campaign that any Government ever ran. It was a tactical failure and wasted not only millions of dollars of government and taxpayers' money, but also millions of dollars of industry money as well. Compare the NSWOW! campaign with the controversial, yet spectacularly successful, Yo - Way to Go campaign in Queensland launched by the Queensland Tourist and Travel Corporation, which is equivalent to the New South Wales Tourism Commission. As a result of that campaign Queensland increased its industry contributions and government funds to more than \$50 million, at the expense of New South Wales.

**Mr Humpherson:** Give them their money back.

**Mr GIBSON:** The money should be given back, too. The other waste of money was the ongoing

funding of numerous New South Wales Tourism Commission officers around the world, à la Neil Pickard. Bureaucrats were sent to the far corners of the world. What did we get for it? A lot of taxpayers' money went down the drain, despite the fact that the Australian Tourist Commission, ATC, had officers in each of these locations and was quite capable of representing the national product. Another positive element of the recent Budget was the allocation of \$2.3 million to the Sydney Convention and Visitors Bureau, an organisation that has had marvellous success in attracting conferences to Sydney from all around the world. Its continued success should be fostered. It languished for far too long. Why? Because the State Government would not give it any funding. At least now it has some funding and it will be able to actively promote tourism and regain some of the ground we lost.

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The zonal strategy announced by the Minister is far below the amount of money that needs to be spent to provide some of the State's tourism spoils to country regional areas. Every day in this Chamber we hear honourable members talk about country people and the farmers. The poor farmers who invested in this fishing expedition in Fiji have not done too much in tourism to help country areas. Eleven zones will share only \$2.2 million, which is not nearly enough to assist whole regions to promote themselves. Often tourism is the only realistic employment generator in many of these areas and the Government should be doing more to assist with job creation.

The Budget cut jobs all the way through, even in an area in which the Government has increased funding. The emphasis is to reduce jobs. The problem still facing the New South Wales Tourism Commission is the internal allocation of its global funding. With a tourism allocation of nearly \$28 million it should be asked why the commission has only \$13 million to run advertisements. If we are going to promote, why are we spending only \$13 million? Most of that money should be spent on promotion. Queensland greatly increased its market budget by disbanding its internal search facility.

[*Interruption*]

If you listen, you will learn how to save some money.

[*Interruption*]

Mr Deputy-Speaker, will you please tell the Minister for Multicultural and Ethnic Affairs to be quiet?

**Mr DEPUTY-SPEAKER:** Order! The honourable member will leave control of the House to the Chair.

**Mr GIBSON:** There are so many groups conducting research in the tourism industry that the State commission does not need to pay for extensive duplication. Significant cost reductions could be achieved by employing an external group and utilising all the other data produced. There is no more researched, analysed or forecast industry in Australia than the tourism industry. It is a straight-out duplication. The resultant job growth in New South Wales through more advertising time would more than compensate for 50 or more people who would be redeployed elsewhere. The only role for the commission is to oversee the design, production and implementation of marketing campaigns. We do not need the commission to double up in this capacity. We need less administration and more promotion, and the Government has to realise that.

As I said, tourism has the most magnificent product to sell, and that is the State of New South Wales, but no one on the Government side can sell it. The message it has been giving while it has been in government has not been good enough to keep New South Wales in the tourism race as far as gaining tourists for this State. It should be noted that George Patterson's advertising agency, which has the New South Wales tourism account, is closely linked with the New South Wales Liberal Party, which is no news, and I await the release of the new advertisements to assess their effectiveness. Political bias is also a complaint levelled at the membership of the New South Wales tourism board. It is a legitimate complaint. The Minister for Multicultural and Ethnic

Affairs might think it is a joke, but I do not. The people in the tourism industry do not think it is a joke either.

I turn now to a couple of matters in my electorate that I feel strongly about. The Government goes around touting about how much money is going to western Sydney for health. I am pleased to see the money going out there, but the bulk of the millions of dollars is going to Westmead hospital for the children's ward. It will be placed in western Sydney, but it is not there solely for western Sydney because its drawing pool will be all of New South Wales and perhaps most of Australia. Other centres attracting a lot of the money are Liverpool Hospital and Nepean Hospital. None of this money that the Government is talking about going out west will improve the availability of health care in western Sydney on a daily basis.

It will not help hospital waiting lists. It will not help people waiting for serious operations to get into hospital any sooner. It will not help reduce long waiting hours in casualty sections of hospitals in western Sydney. It is a furphy to say that this money will help people in western Sydney. It will go into bricks and mortar. That, in the long term, will have a beneficial effect, but not in the short term. What we are experiencing in health in western Sydney today is discrimination between the haves and the have-nots. If you have money in western Sydney or anywhere else in New South Wales it is possible to get care and treatment. If you do not have money you can go and whistle Dixie. [*Extension of time agreed to.*]

The Minister for Multicultural and Ethnic Affairs might like to write to me later and tell me how the State Budget that was brought down in this Chamber last week will help a young kid in my electorate by the name of Daniel Curle, who was 14 years old in 1990. He had an accident playing basketball, hurt his knee and needed an urgent operation. It is now 1993, but the kid has only recently been taken into hospital. He had to wait three years. He has been denied three of the most important years of his life, and I do not say that in a silly sense. The years between 14 and 17 are the years we enjoy sport at school. This kid has been denied an operation. Why? He comes from a single family and his mum could not afford \$3,000 for him to have private care. He had to be put on the waiting list and he has waited for three years.

A couple of weeks ago he finally had his day in the operating theatre, but when he was in there the doctor found out that because he has had to wait three years his problem was far more serious than it was thought. So he has to have another operation. Catch 22. The kid came out of hospital and has to go back

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on the waiting list to have another operation before he can resume a normal life. This young fellow is 6 feet 2 inches tall and weighs about 11 stone. Without a good knee it is impossible for him to do anything. Health care in western Sydney is an absolute disgrace.

How will the State Budget help a person like Darryl Watson, a 23-year-old young fellow in my electorate who, up until two years ago, was one of the leading rugby league players in the area? He came upon hard times because of personal problems. This kid needed treatment. He became hooked on drugs and now has a drug-related psychosis. Blacktown community health has been tremendously helpful to this kid, and so have other organisations, but two weeks ago he finally admitted, for the first time, that he needed help. On Friday his family took him all over the place to seek help. They could not get it because most of the centres were overloaded. This kid, who was begging for help, thought he would take the easy way out. That night he went up to the highway and threw himself under a moving car. Thank God he is still alive. That demonstrates the urgent health needs of people in western Sydney.

Tonight I am talking about ongoing health care, not monuments and buildings. There is a huge problem in western Sydney. One detoxification unit has been built at Wisteria House in Parramatta and only 10 beds are available for public use. The latest figures I could get, for 1990, show that 13,229 people in western Sydney and southwestern Sydney died from drug-related diseases. Figures supplied to me by the people who run the detoxification unit indicate that each day 10,000 people compete for the 10 available beds. There is nothing in the Budget to address that problem. That is because the Government does not know it exists.

How will this Budget help a 10-year-old boy who was admitted to Nepean Hospital? A few months ago, when his appendix was about to burst, he was taken to Nepean Hospital. The surgeon who operated on him had

his stomach open and his appendix hanging out when hospital authorities came into the theatre and ordered the surgeon out. Another serious accident victim had been admitted to casualty. He had been stabbed in the heart and still had the knife in him. I know that that victim deserved treatment also, but the surgeon was ordered out of the theatre and, for nearly half an hour, this kid was left lying on the operating table with his stomach open and his appendix hanging out.

**Mr Photios:** On a point of order: All honourable members would share the concerns of the honourable member for Londonderry about individuals and the particulars of each case. While the issues that have been raised have been sympathetically received by the Government, they are not relevant to the debate. There is no specific budgetary allocation for individual operations. The honourable member should be asked to come back to the issue before the House.

**Mr DEPUTY-SPEAKER:** Order! I have been somewhat concerned, but I believe the honourable member for Londonderry is still within the ambit of the bills.

**Mr Gibson:** On the point of order: Members of the Government are going around this State boasting about -

**Mr DEPUTY-SPEAKER:** Order! The honourable member for Londonderry may continue, but I remind him to stay within the ambit of the bills.

**Mr GIBSON:** Nothing in the Budget Papers will help any of these people in trouble in western Sydney. Millions of dollars will be spent in western Sydney. Mount Druitt Hospital, one of the hospitals in my electorate, which is situated in one of the neediest parts of the State, called a meeting last week. Last year it received no funding but it had a productivity cut of 1.5 per cent. What did it get this year? Last week the Treasurer announced another productivity cut of 1.5 per cent. People at Mount Druitt Hospital have major concerns. Treatment at that hospital is first class and the people who work there are superb, but the hospital cannot keep running on a shoestring budget. It has had even further cuts as a result of the Treasurer's statement in this Chamber last week.

Staff have been told that six top nursing positions at Mount Druitt Hospital will have to go to enable that hospital to effect this 1.5 per cent productivity cut. It is scandalous that this is happening in a working-class area. Hospital staff have been told that, because of a shortage of staff, no one can take holidays for the next three years. Government members should come and look at what is happening in western Sydney before they crow about how many millions of dollars have been allocated to that area. Health care must be available on a day-to-day basis.

Another major problem in my electorate is housing. The Budget has done wonders for public housing in western Sydney! Mount Druitt has a waiting list of about 4,100 people. They have to wait, on average, for three and a half years to get a departmental home. Seven hundred people are on the waiting list at Richmond, where the average waiting time is four years. What do we see in the Budget? Honourable members should keep in mind that, at the moment, nearly 75,000 people are on the housing waiting list. Two units of accommodation will be built at Hebersham, which is in my electorate. Four units of accommodation will be built at Lethbridge Park. That is a fantastic increase of one unit compared with the figures for last year. So a total of 25 units of accommodation will be built at Mount Druitt, even though there is an average waiting period of three and a half years for 4,000 people on the waiting list.

Government members have to be joking when they talk about this Budget being a family budget. Twenty-one units of accommodation will be built at Richmond - an increase of three units on last year's figures. I know what people in western Sydney think of the Government and its Budget. I know where they would like the Government to place it at this stage. One unit of accommodation will be built at Mount Pleasant, which is in my electorate. One unit of accommodation will be built at Kingswood Park.

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How can the Government afford to build them? When that part of western Sydney was established about 25

years ago, the average age was only 11. Today the population has aged.

One of the major problems facing people in that part of western Sydney is accommodation for the aged. Nothing is provided in the Budget for accommodation for the aged in Mount Druitt. Budgetary allocations for maintenance would not keep people in Mount Druitt in stamps for the coming year. How will they help people like George Ajoule and Jeffery Dodd? I have been trying for three years to get a ramp built in the front of their house. The Government will not build a ramp in front of their house because a ramp has been built at the back of their house. But these people are different from normal run of the mill types of people; they are both confined to wheelchairs, one because of polio and the other because he is a quadriplegic. The Minister for Planning and Minister for Housing wrote to me and said that, in case of a fire or anything like that, there was a ramp at the back of the house. Imagine two men in wheelchairs in the little hallway of a three-bedroom departmental house trying to get past one another in order to get out. It is a disgrace.

How will this Budget help Mrs Rigley, a lady who lives at Shalvey? She has been waiting for three years to have a hole in a fibro wall of her house fixed. She can sit in her lounge room and see the road outside. There is no money for maintenance of public housing in this Budget. Windows in her house that need repair have rotted while she has been waiting. The poles in the house occupied by Margaret O'Connor at Blakett have collapsed and her house is sinking. There is no money in this Budget to fix her house or to address other problems. How will this Budget help people in western Sydney? What does the Minister for Multicultural and Ethnic Affairs, who is in the Chamber, have to say about this? Leanne Porter, who has four kids, has been on the waiting list for two years. Patricia Norman, who has a family, has been on the waiting list for four years. One unit of accommodation is being built in her area.

Gary Mackin, a single fellow and hard-working bloke with a couple of kids, has been on the waiting list for three years. He has no chance of getting a house. Joan McMonagle, who lives in Mount Druitt, has been on the waiting list since February 1987. How will this Budget help Daisy Assey? She has been on the waiting list for five years. Government members should visit western Sydney, where the real people live, and tell those people how good their Budget is. This Budget is not a budget; it is an exercise in arithmetic. We will see how much the Government delivers. For three or four years Opposition members have been trying to get a hospital built at Hawkesbury. Mr Speaker would know what I am talking about. For three years in a row that proposal, which was included in the capital works program, was allocated \$70 million. The hospital has still not been built. This Budget is not worth the paper it is written on. The Government has no credibility.

**Mr NAGLE** (Auburn) [10.30]: I concur with the honourable member who said that one of the grave issues about the Budget is that although we have heard for the last five years "jobs, jobs, jobs", there are no jobs. Where is the creation of jobs in this Budget? The Minister for Health threatened to close the last remaining hospital in my electorate unless he received \$61 million from the Federal Government. He was using the local hospital in a Labor area, the last hospital in the electorate, to screw a few dollars out of the Federal Government. In 1988, when I became the member for Auburn, there were three hospitals in the electorate - St Joseph's Catholic Hospital, Lidcombe Hospital and Auburn District Hospital. They all contributed in their own way to important issues relating to hospitals.

This Government would not allow any hospital to survive in a Labor area. They are all right on the North Shore and in the eastern suburbs, and in the National Party electorates, but there is no way we are going to have a hospital in the Labor electorate of Auburn. The Government says that they should be closed down because people in the area are not using them. Yet St Joseph's hospital catered for 36,000 casualties in the last year and Auburn District Hospital catered for 25,000. Auburn District Hospital was compensated for the loss of casualty patients with a \$2 million increase to carry out capital works programs. There is now a waiting period of from three to seven hours before a person can be attended to following an injury.

Where is the job creation in the Budget? There is a grey area in relation to the casualty department of Auburn District Hospital. The stress and strain on the staff is reflected in the views of the ethnic and local community that some members of the staff do not care about them. In fact, they do care about these people, but there are not sufficient funds to provide the nursing staff or the doctors for the hospital. That hospital is

currently sending people to other hospitals, if those hospitals can take them. I attended the opening of the casualty section at the hospital with the Minister for Health. He was clapping his hands together as he interviewed a patient.

He asked her why she was in hospital. She said she had been brought in through the casualty department, she had suffered a heart attack and that she was being looked after in the coronary care unit. The Minister for Health said that was wonderful. If he were a lawyer, he would not have asked his final question. He asked her where she lived. She said, "I live in Canterbury". He then compounded the problem by asking her how she got to Auburn. You should never ask a question to which you do not know the answer, because you may not like the answer. In front of everyone she said, "I was taken to Canterbury Hospital but they could not take me into the coronary care unit so they brought me over to Auburn District Hospital".

A capital works program is needed. Activity and residential development are needed to get the New South Wales economy going. In getting the economy  
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going jobs should be created together with activities that would promote more people having sufficient money to pay for their hospital accommodation. Everyone must give a little bit here and there to get the economy going in a recession, but last year this Government, in its programs, underspent \$327 million in capital works programs, which could have created approximately 18,000 new jobs. The Government is frightened that in the final analysis it may be seen as a Government that has a high deficit in its Budget, despite claims in the Budget Papers that it has done a lot to reduce that deficit. I took the liberty of asking the library staff to tell me the projected deficit in the 1987-88 Budget under the last Labor Government. They informed me that there was no deficit, there was a \$4 million surplus.

[*Interruption*]

The Minister for Multicultural and Ethnic Affairs claims that the coalition Government got an expert to report on that, but he was one of the greatest tax avoidance experts in Australia.

**Mr Photios:** Charles Curran - and he got it right.

**Mr NAGLE:** Mr Curran was able to assess it. If the Minister for Multicultural and Ethnic Affairs was able to read the budget speech I made then, which was an analysis of Mr Curran's assessment -

**Mr Photios:** I heard it at the time, and it was riveting.

**Mr NAGLE:** That is exactly right. But even though it was riveting, the Minister for Multicultural and Ethnic Affairs has never to this day been able to realise that my speech was an analysis by a top accountant of what Mr Curran had to say. Let us analyse the Treasurer's speech. He talked about the sale of the State Bank and about that bank having deposits of \$18.7 billion. He then said that required a \$3,000 guarantee for every man, woman and child in the State. In usual money borrowing a person wanting to borrow money from a bank would tell the bank what his asset backing was and what his income was so that he could repay the debt. If the State Bank is sold for the price and in the way that the Government wants to sell it, a valuable asset will be lost against future borrowing. Such a sale would be similar to the housing commission homes that were sold under the HomeFund scheme.

If a banker in the United States of America were asked to provide \$1 billion for the Olympic Games in order to build infrastructure such as a 3.6 kilometre tunnel from Lilyfield Road to the Concord expressway, he would have to be persuaded to lend the money. In the year 2000 there will be a massive Olympic stadium and numerous people will travel in cars or buses through Leichhardt, along Parramatta Road to that stadium for the Olympic Games events. By the time those people get to the events, the events will be over, unless they get up at 4 o'clock in the morning, along with everyone else going to the Olympic Games. If a bank were approached to provide a loan of \$500 million to \$800 million for such a tunnel undertaking, it would ask about asset backing. This Government would say, "Do not worry about that".

The Government has sold off most of our commission homes and is selling off all its land. In Bennelong Road, Homebush Bay, a property that was worth \$46 million was sold by the Government in its early days in office for about \$12 million on the basis of low rental tenancies. The previous Government had granted tenancies at low rental. Since then, the people who bought the property have been able to increase those rentals, which are now equivalent to the rentals received along Silverwater Road in my electorate. Do not worry about that. The Treasurer says we have tax restraint situations, we are keeping taxes down. Honourable members will recall that the Government promised that it would introduce a 3c a litre petrol tax for three years.

**Mr Photios:** We did.

**Mr NAGLE:** I know you did. Then it was 3 x 5, 3 x 8 and 3 x 10. It will be 3 x 15 if this Government survives. But it will not survive. I had not intended to speak about ethnic affairs until the end of my contribution, but as the Minister for Multicultural and Ethnic Affairs is present in the Chamber and continues to interject I will use the Minister as a sounding board for the ethnic people of the Auburn electorate. I quote from the Treasurer's Budget Speech at page 25, so that the ethnic communities of New South Wales will know what was said:

New South Wales attracts 40 per cent of the people migrating to Australia. Greater effort must be made to fund settlement and related services. An additional \$3.5 million will be provided in 1993-94 to the Ethnic Affairs Commission.

Only 36 words about the Government's ethnic affairs program for New South Wales have been included in the Budget Speech; yet the Minister told me and members of the ethnic communities that ethnic affairs are of central importance to this Government. Without an ethnic base the Government cannot survive. However, the Budget Speech contains 228 words about the arts and cultural activities.

**Mr Photios:** That is not surprising. The Treasurer is also the Minister for the Arts.

**Mr NAGLE:** Every ethnic community should be aware that the Treasurer is the Minister for the Arts and that 228 words of his speech are about what the Government will do to assist the arts and cultural activities, but only 36 words appear to explain what the Government intends to do for ethnic communities. The ethnic people of New South Wales are being torn asunder by the policies of this Government. Only \$3.5 million has been allocated to assist ethnic people. I hope the Government uses that \$3.5 million to reopen the ethnic affairs office that had operated in Auburn for a decade before this Government came to

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office. St Joseph's Hospital and Lidcombe Hospital have been closed and so has the ethnic affairs office in Auburn. What will happen to the not so wealthy people and the poor people in the Auburn electorate, those who are unemployed or making a bare living under the New South Wales Government's collective bargaining industrial relations policy? They will have to pay train fares and go via Bankstown or Strathfield to get to Ashfield to get assistance.

My office has arranged to have available interpreters of the Arabic, Turkish, Croatian, Chinese and Vietnamese languages. People from ethnic backgrounds come to my office so that they can have access to interpreters. In 1988, under a Labor Government, that service was provided in the ethnic affairs office. People with medical, legal and immigration problems have to come to my office to seek assistance. You will be aware, Mr Speaker, that I have written to you seeking approval to have another staff member to help me to cope with the upsurge in the number of people coming to my office because the Government has closed down important social services in my electorate so that it can look after its mates in the eastern suburbs and on the North Shore. Ethnic affairs rated only 36 words in the Budget Speech, though arts and culture merited 228. Arts and cultural activities are fine for those on the North Shore or in the eastern suburbs. Government members should get out among the people. Two-thirds of the population of Sydney live in the western parts of Sydney.

The reason the Minister for Multicultural and Ethnic Affairs is so angry about what I am saying is that I

am cutting him to the bone. Whenever he goes to the Hotel Wentworth to deliver a dissertation on the value of what his Government is doing for ethnic communities he should remember that though the leaders of the ethnic communities may attend, they listen to the people of the western suburbs of Sydney. The Minister should get real. Most of the ethnic people do not live on the North Shore or in the eastern suburbs. They live out in the western suburbs, and they deserve more than 36 words in the Treasurer's Budget Speech. We are told that the Government is maintaining the level of taxation. I shall inform honourable members about taxation. I quote from page 28 of the Budget Speech:

It is common sense to avoid tax increases when we can improve the returns from Government Trading Enterprises.

By government trading enterprises the Treasurer means the Water Board, the electricity authorities and the county councils. The Government is taking the profits of trading enterprises. Government members forget that the people who provide the money for government trading enterprises happen to be many of those in my electorate who have to go to St Vincent de Paul, the Salvation Army or to my office because they do not have enough money to pay for the services they require. The Government will take the profits from its trading enterprises because it does not have the guts to increase taxes on its mates out in the eastern suburbs and on the North Shore. That is why the two girls in my office work their hearts out. Last year we sent out 17,000 letters trying to deal with issues that are important to the people of the electorate, including trying to save Lidcombe Hospital. One letter speaks a thousand words. Let me tell honourable members about Lidcombe Hospital and health issues. I quote from a letter from a man whose father was treated at Auburn District Hospital:

Due to hospital budget restrictions a period of eight days was allowed to elapse before he could be seen by a speech pathologist. The family were not at the time made aware of the reason for this delay or of the options available to us which would have speeded up this process.

*[Extension of time agreed to.]*

Auburn District Hospital is a good hospital and has good staff.

**Mr Photios:** I am with you.

**Mr NAGLE:** The day the Minister for Multicultural and Ethnic Affairs is with me is the day I will know I am wrong. This letter, which deals with a serious matter, relates to a person who did not get proper treatment because the Government cut back funding for Auburn District Hospital. It gave the hospital a five-year budget on which to survive and threatened the Federal Minister for Health that it would close the hospital unless the Commonwealth Government gave the State \$61 million. That is why I confronted the Minister for Health at Concord hospital. I asked him whether he intended to close Auburn District Hospital. He said yes, he did, and that I was only scaremongering. But when the television cameras were running he gave an unequivocal undertaking not to close the hospital. That did not mean that he would not starve the hospital out of existence. Let me read further from this letter:

I was required to identify my father's body with the police on the day after his death. Any such formalities should have been carried out on the day he died.

I was greeted at casualty reception by "What's your problem?" "How can I help you?" would be a more appropriate greeting at a public institution.

My father had top private medical insurance . . .

That man died. An earlier paragraph of the letter reads as follows:

The possibility of feeding through the nose was only raised on the day before my father's death when he was already hopelessly weakened by lack of food.

My father attended that same hospital and was diagnosed by experienced people as having suffered a heart attack. This Government was in office and that hospital had insufficient staff. My father did not die of a heart attack but bled to death from an ulcer in the lower bowel. We must improve hospitals and hospital staff numbers; we must demonstrate that politicians care about the hospital system and its people. If we care, they will care and, if sufficient funds are allocated, necessary services will be provided. I do not care how many debates we have in Parliament about Ministers obtaining money through defamation action or such other matters.

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There are only two fundamental reasons why we are members of Parliament. We have a responsibility to divert money from the Federal Government into our own taxing system to provide for education and health. We may deal with matters relating to environment, police, law and order, ethnic affairs and so on, but if we cannot provide a sound health system and excellent education, we are here for nothing. We may as well just have four local councils in the Sydney metropolitan area instead of a State Parliament. We have a responsibility to the people.

I become angry when I learn that \$100 million is being spent on an aquatic pool at Homebush in my electorate on the basis that Sydney might get the Olympic Games. It would cost only \$64 million to transform Lidcombe Hospital into the top specialist hospital in the southern hemisphere, and that is from a report by the Minister about Lidcombe Hospital. I wonder how honourable members would feel if they received a handwritten message from a member of their staff which says:

Mrs Skelley phoned re Lidcombe Hospital. Husband ill with cancer. Did go to St Joseph's for regular checks. Now told 1 to 2 yr waiting list for this check-up at Lidcombe Hospital. Only other options are travel to Fairfield.

This man is dying of cancer and he cannot get into Auburn hospital or Concord hospital for checks, yet \$100 million is being spent on building an Olympic pool on the basis that Sydney may win the Olympic bid. I cannot express my view more strongly, and I will continue to express that view.

This Government said it is doing many things. It released the Rolfe report on the transport industry. We have been told in the Budget Papers about employment and training and how the Government is introducing enterprise bargaining - in the United States it is called collective bargaining. A member knows he is winning a debate in this Parliament when the Government brings in the honourable member for Ku-ring-gai to participate. I wish to read a letter dated 13th September, but I will not name the company because I am still investigating the matter. The letter states:

X Transport asked us to take on extra work. This was a real boost to our business but we needed a larger truck to cope with the work. We approached X Transport and they said that it would be a good idea to purchase a larger truck. We borrowed a further \$20000 and bought the truck.

**Mr Photios:** Where is this truck listed in the Budget?

**Mr NAGLE:** Indeed, it is in the Budget. It mentions the greatness of enterprise bargaining and how employees are able to negotiate. The letter continues:

Three weeks later X took the work away from us leaving us considerably worse off. X's next ploy was to take work from our existing run. Our biggest customer is AB Club. They refused delivery when X arrived with their order saying that they wanted the same subcontractor to deliver for them.

This Government, through its industrial relations, educational, hospital and other policies, is wrecking the State of New South Wales. I hear all the time about the excellent work of the Government. The Minister for Consumer Affairs attended a meeting of the Road Transport Association and said, "If we pay any goodwill to any of those truckdrivers, it will be the end of western civilisation as we know it". That is not a direct quote but

it is exactly what she meant. I wish to refer to what the Ballina electorate has received compared to what my electorate has received, being represented by a Labor member. The honourable member for Ballina said:

These budgetary allocations have been 12 months after other schools have been completed in my electorate.

He was referring to the former Labor Government. He continued:

Last week the Minister for Education opened a \$5 million school.

**Mr Photios:** Who was this outstanding community-based member who received that allocation?

**Mr NAGLE:** It was the honourable member for Ballina.

**Mr Photios:** You ought to write to him for guidance.

**Mr NAGLE:** I will, and he will say in his letter, "When you get into government you will be able to do the nasty things to us that we did to you".

**Mr Photios:** I would lay London to a brick on you will not get that response.

**Mr NAGLE:** Does the Minister for Multicultural and Ethnic Affairs want to try for a second time? I thought he would have given up after he fouled up by getting 36 words in the Treasurer's speech about what he will do for ethnic affairs. I wish to now refer to North Auburn Primary School. Two years ago that school had approximately 530 students and now it has 660. It has had one and a half teachers allotted for the other students, but 89 per cent of the students are ethnic and many cannot speak English. Yet this Government has given them for English as a second language, not five teachers, not four, not three, not two, not one but zero, and the school has asked continually for funding.

**Mr Photios:** The ESL program is a Federal Government funded program, and the honourable member knows it.

**Mr NAGLE:** Therefore, every time there is a mistake or hiccup in society it is the fault of the Federal Government. If it had been a Liberal Government, honourable members opposite would find some excuse. The honourable member for Ballina said:

A \$4 million new school at Ocean Shores will soon be opened and students will commence term four this year. I do not believe anyone can claim achievements similar to those in my electorate.

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Other members of this House are receiving preferential treatment.

The toll on the F4 Freeway has risen from \$1 to \$1.50. The people in the western suburbs are being slugged again, and that is appalling. Many people are waiting for public housing. HomeFund has enormous problems, and about 400 to 500 people have visited me after making applications for years for public housing. We have major problems in western Sydney and this Budget does not address them. The Government should consider its priorities and the poor people suffering in western Sydney and western New South Wales. I hope the Budget is successful in helping those in need. If not, the Government should realise that it is a sham, close the doors, call an election and allow a new Labor government to do the right thing by the people of New South Wales.

**Debate adjourned on motion by Mr Amery.**

## **BILLS RETURNED**

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

Crimes (Common Nightwalkers) Amendment Bill  
Homebush Bay Ministerial Corporation (Dissolution) Bill  
Liquor (Taxation) Amendment Bill  
Registered Clubs (Taxation) Amendment Bill  
Totalizator Legislation (Amendment) Bill.

**House adjourned at 11 p.m.**

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